

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA) CAUSE NO. 3:04-CR-240-P
(
vs.)
(SEPTEMBER 29, 2008
(DALLAS, TEXAS
HOLY LAND FOUNDATION, ET AL (9:00 A.M.

VOLUME 10 OF 37

STATEMENT OF FACTS

BEFORE THE HONORABLE JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE
and a jury

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INDEX

EXAMINATION

Witness Name	Page
LARA BURNS	
Direct By MR. JONAS	39

Government's Exhibits

Government's Exhibits	Page
Hamas Charter No. 3 Admitted into evidence.	43
El-Mezain Deposition Admitted into evidence.	46
HLF Wiretap 2, 2-A Admitted into evidence.	53
OLF 1988 Disbursements Admitted into evidence.	56
1989 OLF Disbursements Admitted into evidence.	63
HLF Search No. 7 Admitted into evidence.	65
HLF Search No. 8 Admitted into evidence.	66
Baker Declaration Admitted into evidence.	67
HLF Search No. 108 Admitted into evidence.	69
InfoCom Search No. 28 Admitted into evidence.	73
Payments To IC/Gaza Admitted into evidence.	74
HLF Bank Account No. 1, 3 Admitted into evidence.	76
HLF Search No. 42 Admitted into evidence.	76
InfoCom Search No. 20 Admitted into evidence.	76
HLF Foreign Bank Account No. 1 Admitted into evidence.	76
Chart Bank Accounts Admitted into evidence.	77
Payments to K&A Trading Admitted into evidence.	84
K&A Trading Account Admitted into evidence.	87
K.Agha/K&A/Marzook Admitted into evidence.	91
Elbarassee Search No. 36, 39 Admitted into evidence.	92
Marzook Bank Account No. 4 Admitted into evidence.	92
Chart Marzook/UASR Admitted into evidence.	95
Marzook Bank Account No. 1, 3 Admitted into evidence.	96
Elbarasse Search No. 38 Admitted into evidence.	96
Marzook/IAP Admitted into evidence.	97
Marzook Bank Account No. 2 Admitted into evidence.	98
Marzook/Defendants Admitted into evidence.	101
Elbarasse Search No. 40 Admitted into evidence.	105
Marzook Tax No. 1 Admitted into evidence.	107
InfoCom Search No. 83 Admitted into evidence.	112
Baker Wiretap No. 2, 2-A Admitted into evidence.	113
El-Mezain Wiretap 11, 11-A Admitted into evidence.	118
Marzook/Defendants Phone Calls Admitted into evidence.	125
HLF Search No. 9, 10 Admitted into evidence.	126
Bell Atlantic 1, 2 Admitted into evidence.	126
South Central Bell Admitted into evidence.	126
New Jersey Bell Admitted into evidence.	126
Payments to Islam RA Admitted into evidence.	136
HLF Search No. 44 Admitted into evidence.	137
Elbarasse Search No. 17 Admitted into evidence.	139

InfoCom Search No. 3 Admitted into evidence.	140
InfoCom Search No. 4 Admitted into evidence.	140
Demonstrative No. 8 Admitted into evidence.	142
InfoCom Search No. 22 Admitted into evidence.	143
Elbarasse Search No. 18 Admitted into evidence.	150
Ashqar Wiretap No. 1, 1-A Admitted into Evidence	163
Ashqar Wiretap No. 2, 2A Admitted into evidence.	168
Ashqar Search No. 4 Admitted into Evidence	171
Philly Meeting Summary Admitted into Evidence	173
Philly Meeting No. 1-18 Admitted into Evidence	177
Baker Wiretap No. 4, 4A Admitted into evidence.	196
Elbarasse Search No. 19 Admitted into evidence.	224
InfoCom Search No. 5 Admitted into Evidence.	233
El-Mezain Wiretap No. 2 Admitted into Evidence.	234

1 THE COURT: I have not had a chance to look at all
2 these written objections, but I have looked through a good
3 portion of them and I understand Mr. Elashi is the Defendant
4 who is in custody. Is your client here?

5 MR. CLINE: Yes, Your Honor.

6 THE COURT: And the rest of the Defendants, we don't
7 need them here for this hearing?

8 MR. WESTFALL: That is true, Your Honor.

9 MR. DRATEL: Based on timing of morning prayer and
10 the traffic, I didn't think they would be able to make it
11 until 8:45.

12 THE COURT: That is fine.

13 All right. The objections to the search exhibits,
14 Abdulqader wiretaps, the Ashqar wiretaps, the Baker
15 wiretaps -- Let me start with the wiretaps. Those objections
16 that were based on the hearsay and the timing, those are
17 overruled, the same rulings that we have had previously.

18 And then the items that were recovered in the searches,
19 the Ashqar search and Elbarasse search, those are also
20 overruled.

21 MR. CLINE: Your Honor, may I ask one question on
22 that?

23 THE COURT: Yes.

24 MR. CLINE: At the last trial Judge Fish
25 conditionally admitted the co-conspirator statements subject

1 to a motion to strike at the end of the Government's case.

2 THE COURT: And you can have that.

3 MR. CLINE: So at the end of the Government's case
4 we can renew --

5 THE COURT: Correct. I understand the argument with
6 whether a conspiracy is established or not. We are early on
7 in the case, so certainly you can have that conditional
8 admitting. So that would apply to all -- the wiretap?

9 MR. CLINE: And I am sorry to keep interrupting.
10 One other thing. May we have -- Just to make sure our record
11 is clear, may we have a conditioning objection to the various
12 exhibits based in what is stated in our pleadings so we don't
13 have to keep hopping up and objecting to things.

14 THE COURT: Yes, sir. And you may have that
15 continuing objection.

16 MR. JACKS: Judge, since it is going to be a
17 continuing objection, we would ask that the Defense not stand
18 up and make an objection if the document or exhibit doesn't
19 have an author or indicated. We think that is unnecessary,
20 and in a way it is intended to communicate something to the
21 jury that is not necessary and appropriate at that time.

22 THE COURT: Counsel, any response to that?

23 MR. CLINE: I think we have a continuing objection,
24 so I don't think --

25 THE COURT: And I have ruled on those objections.

1 All right.

2 I am on page 11 and 12 of the Defendants' written
3 objections, the El-Mezain deposition. And on page 12 at the
4 very end of Roman numeral paragraph 4, pages 2 to 6 of the
5 proposed El-Mezain deposition, Mr. Jonas, do you see that?

6 MR. JONAS: Yes, Your Honor. And if I may address
7 the deposition issue. Ms. Hollander and I met yesterday to go
8 over the deposition of her client Shukri Baker as well as the
9 declaration. I believe we came to an agreement as to how the
10 final form should be, and those changes were made this
11 morning.

12 THE COURT: Are you in agreement with that?

13 MS. HOLLANDER: I am. And I brought a copy just to
14 make sure -- We were doing it pretty fast, but I think we have
15 it, Your Honor.

16 MR. JONAS: On the El-Mezain deposition, we received
17 an email from his counsel late last night that they have some
18 objections. We just had a very, very brief discussion on it
19 just before Your Honor got on the bench. There is one or two
20 pages of that I plan to getting into this morning with Agent
21 Burns. I don't believe I am get into anything else.

22 We will meet to discuss the rest of their issues and try
23 to work something else at the end of the case. So I guess my
24 point is if Your Honor can reserve ruling on that.

25 THE COURT: Certainly.

1 MR. DRATEL: That is appropriate, Your Honor.

2 MR. CLINE: And, Your Honor, on the subject of the
3 depositions and declarations generally, on behalf of Mr.
4 Elashi, and I suspect the other Defendants not involved will
5 agree with this, we would ask the Court at the time the
6 excerpt is read into evidence to give a limiting instruction
7 that it applies only to the Defendant who is the declarant in
8 the particular piece of evidence.

9 MR. JONAS: Your Honor, our position is that is fine
10 if we are offering the statement for the truth. But if it is
11 a statement that is a false statement that we say is done to
12 further conceal the conspiracy, we don't think such an
13 instruction is appropriate.

14 And I think we need to be clear, because given the
15 instruction last week that the instruction is because this
16 particular statement in this particular deposition was made
17 after the conspiracy pretty much ended, after Holy Land was
18 shut down--I don't want to say after the conspiracy ended.
19 That is the wrong term. But, this is after HLF was shut
20 down--is very limited. I am concerned that what I said last
21 week at the bench that if a Defendant makes a statement in the
22 '90s, let's say, when the HLF was up and running, those
23 statements certainly are statements made in furtherance, and
24 we don't want the jury to confuse what they can limit to one
25 Defendant versus what they can hold against everybody. So I

1 think we need to carefully craft an instruction for Your Honor
2 to give at those appropriate times.

3 MR. CLINE: And I am not sure what is coming in today.
4 If we have time to do that, I am happy to meet --

5 THE COURT: And I think we will have some time. We
6 will finish up here in just a few minutes, and then you can
7 work on that or even during the day. And I won't give it
8 until we come up with something.

9 The wiretap and the search exhibits, then, those
10 objections have been overruled.

11 And then we are withholding on the depositions to give
12 counsel a chance to work it out.

13 What other exhibits, then, do I need to rule on?

14 MS. HOLLANDER: Roman numeral five, the Al Zatounia
15 and Illa Falistine exhibits. And I believe there are some
16 more after that, Your Honor. Those are the next ones.

17 THE COURT: Those are the ones we will start with.
18 And I don't have those. Do you have a copy of those that I
19 can see?

20 MR. JONAS: Your Honor, we are going to have paper
21 copies of those brought up. It may just take a few minutes.

22 THE COURT: Okay. And you are seeking to introduce
23 the entire documents found these newsletters?

24 MR. JONAS: Honestly, we are still undecided about
25 that. I think the way it stands right now, one is in its

1 entirety, and the others are just redacted versions. And I
2 think the one in its entirety, we just have a translation for
3 a few pages of it that we believe are relevant.

4 THE COURT: Which one is that one?

5 MR. JONAS: I believe that is Illa Falistine No. 1.
6 And then the rest are just a few pages in Arabic that match up
7 with the few pages in English that we have. And I can address
8 the background of this if Your Honor wishes.

9 THE COURT: Go ahead.

10 MR. JONAS: In some of the Elbarasse documents that
11 have already been admitted, they discuss the role and the
12 purpose of the IAP, the Islamic Association of Palestine. And
13 one of the functions of that organization was to publish a
14 magazine. I can't remember if it is monthly. It is
15 periodically. I can't say monthly or bi-monthly, and
16 specifically identifies these particular magazines these Illa
17 Falistine and Al Zatounia.

18 Contained within some of them are certainly ads from the
19 HLF. And in one of them in particular there is a, for lack of
20 a better word, a poem from the Defendant Shukri Baker that is
21 an ode to Hamas. There is also an article in one of them that
22 we seek to admit that talks all about Hamas, it is pro-Hamas,
23 encourages people to donate to Hamas, and says to give your
24 donations to the Occupied Land Fund, the predecessor to the
25 HLF.

1 Clearly these magazines, if you look at the comment, are
2 pro-supportive magazines of Hamas; consistent with everything
3 we have seen so far, and everything we will see, about the HLF
4 and the IAP, the Defendants, and the co-conspirators.

5 We received these magazines from a third party. They
6 weren't obtained in a search warrant. They were not obtained
7 by grand jury subpoena. They were given to us by third
8 parties.

9 It is our position that they are self-authenticating
10 under 902, I can't remember if it is (6) or (8) as
11 periodicals, and that they are co-conspirator statements or
12 joint venture statements made in furtherance of the
13 conspiracy, so we think that they come in that way.

14 THE COURT: Okay.

15 Ms. Hollander?

16 MS. HOLLANDER: Yes, Your Honor. The third party
17 they received these from we believe were the plaintiffs in the
18 Boim litigation that you have heard about before. They are
19 not -- They are parts of these magazines. There is one that
20 is a complete magazine. The rest of those are just portions
21 of them. The translations in many cases don't even include
22 the whole thing.

23 In other words, they will translate it, and it will say
24 "caption for photo," and the photo isn't even there of a
25 demolished home or whatever.

1 I mean, they are hearsay within hearsay within hearsay.
2 There is no way to know what they are, who said them. They
3 weren't written -- We don't know who wrote them. Even the
4 story that is allegedly written by Shukri, we don't know
5 whether he wrote it. We don't know who wrote the headline of
6 it, because editors write things and change things. We have
7 no idea of these except to know they came from the Boim
8 litigation. They came in in bits and pieces, and they are
9 just rank hearsay.

10 THE COURT: What about the hearsay objection, then?
11 You have covered authentication, but what about hearsay?

12 MR. JONAS: Because these magazines that are being
13 published by the IAP, which, as we have already established,
14 the Defendant Shukri Baker was involved with the IAP, but also
15 he acknowledged in his deposition that he was on their
16 advisory board at this time. It is co-conspirator statements.
17 The IAP is publishing and creating this magazine.

18 With regard to the poem written by Shukri Baker, his name
19 son it, and I think that goes to weight as to whether or
20 not --

21 THE COURT: I agree with that. She has a hearsay
22 objection just generally to these periodicals. And most of
23 what she stated I think goes to weight, but what about the
24 hearsay?

25 MR. JONAS: I guess, Your Honor, it depends upon the

1 particular item that she is referring to.

2 THE COURT: Let's say she is applying hearsay to the
3 entire periodical.

4 MR. JONAS: Again, we think it is a co-conspirator
5 statement that is published and created by the IAP. The
6 article I referenced a moment ago, not the one that is
7 authored by Shukri Baker, but the one that encourages people
8 to donate to the HLF --

9 The article I mentioned a moment ago -- Well, two things.
10 One, again, it is like the Elbarasse documents. It doesn't
11 always matter who authored it. The content clearly indicates
12 that it is someone who is part and parcel to this Palestine
13 Committee and is a co-conspirator, first of all.

14 Second of all, we are not offering it for the truth. The
15 content is all about Hamas and support of Hamas. We are
16 offering it to show this is what is going on during this time
17 frame involving these Defendants, this Palestine Committee,
18 these co-conspirators, of encouraging people to donate to the
19 HLF to support Hamas.

20 MS. HOLLANDER: Well, Your Honor, two things. If
21 they are not offering it for the truth, it is not relevant at
22 all.

23 And secondly, if they are not offering it for the truth,
24 the jury is never going to get that distinction, anyway.

25 And third, if these things come in, they involve all

1 kinds of political issues. For example, one of them is about
2 the deportees in 1992, and it talks about some of the
3 detainees who came back and were detained. Well, I believe
4 that they were immediately released. This is a whole
5 political issue that we are going to have to get into.

6 One of them talks about how the United States, even
7 though it supported the resolution 799 in the U.N. condemning
8 Israel, that there is a whole article about how later the
9 U.S., somebody from the U.S. talked to Prime Minister Rabin
10 and said, "Don't worry. We will make sure a vote doesn't come
11 up." So we will have to bring that issue in.

12 It raises enormous numbers of political issues we can't
13 just let sit there, and that are totally irrelevant.

14 MR. JONAS: Your Honor, I don't any of that is in
15 the translation.

16 MS. HOLLANDER: Yes, it is. It is. I mean, I read
17 it last night. That whole thing about the deportees, there is
18 a whole -- all kinds of political issues raised in these.
19 Even the one that has the statement that is attributed to
20 Shukri has another article about Hamas in it, and we don't
21 know who it is.

22 These were not -- There is one that they claim is an
23 advertisement by Holy Land in this magazine, but the others
24 are somebody in this magazine saying donate to Holy Land, and
25 we have no idea who did that.

1 THE COURT: I still think that goes to weight. What
2 about these articles that have to do with the politics?

3 MR. JONAS: Your Honor, I honestly don't recall that
4 being in there. I will accept Ms. Hollander's word at this
5 moment. But may I make a suggestion? There are very few
6 pages that are translated right now that we plan on offering
7 into evidence in English. If we could just show them to you
8 and Your Honor can make the decision if they are issues that
9 you are concerned about --

10 THE COURT: And we can deal with that later, as long
11 as they don't get to the jury. You are not planning on
12 showing any of that to the jury today?

13 MR. JONAS: Not today. I doubt we will get to it
14 today.

15 THE COURT: Even when you get to them, are you
16 planning on getting into those political stories that she is
17 talking about?

18 MR. JONAS: No, sir, that is not the plan.

19 THE COURT: So before you get into anything like
20 that, approach the bench. And I think for what you are
21 offering it, I think that is permissible and I will overrule
22 the objections, those objections to those articles that you
23 are talking about.

24 MS. HOLLANDER: Your Honor, can we have a limiting
25 instruction that they are not being offered for the truth?

1 THE COURT: No. I think if you are offering them as
2 part of co-conspirator statements, then they do come in and
3 they can be considered for the truth. And I think, frankly,
4 you are offering them for the truth. You say you are not, but
5 then you are saying you want to show that in fact they are
6 supporting Hamas, encouraging. That sounds like you are
7 offering it for the truth. I think they come in with that
8 exception, through that exception.

9 MR. DRATEL: Your Honor, just with respect
10 authentication, I just want to just lodge an objection based
11 on the fact of I think in this day and age, in the context of
12 self-publishing, that a third party giving something to the
13 Government is not authentication of a published document, that
14 it is what it purports to be.

15 THE COURT: I don't think it is the fact who gave it
16 to the Government. It is the document itself that
17 authenticates itself by simply looking at it. And if you tell
18 it is what it purports to be --

19 MR. DRATEL: But no one can, because no one can tell
20 us what an authentic version of these magazines look like. We
21 have no testimony -- I realize the hurdle is not that great,
22 but I think at some point --

23 THE COURT: I don't think they are required to do
24 that, otherwise there wouldn't be self-authenticating. I
25 think that is the purpose of having the self-authentication

1 rule is the document authenticates itself. Unless there is
2 something about it that is intrinsically unreliable. And if
3 it looks like it is a periodical, I am not going to find that
4 the self-authentication is not permissible.

5 MR. DRATEL: I just object on those grounds.

6 THE COURT: All right. You have your objection.

7 MS. HOLLANDER: So you are going to take a look at
8 them, though, before --

9 THE COURT: I will take a look for those specific
10 articles that you are objecting to. But in terms of the
11 periodicals themselves, I think they are admissible for the
12 purposes that Mr. Jonas has identified in terms of showing the
13 link between -- Anything that has to do with the Holy Land
14 Foundation, Occupied Land Fund, obviously that is admissible,
15 and then having to do with Hamas, that is admissible for those
16 purposes.

17 If there are other articles or other reasons you want to
18 get into those, you would need to approach the bench before
19 you get into those in front of the jury, Mr. Jonas.

20 Ms. Moreno?

21 MS. MORENO: Good morning, Your Honor.

22 I was trying to keep up over there. I may not have. On
23 the HLF/InfoCom search documents category, has the Court ruled
24 on those?

25 THE COURT: I don't know that I specifically did. I

1 think I stated the search and the wiretaps. Do you have
2 objections to those, other than the general hearsay and the
3 timing?

4 MS. MORENO: I do have a very strong hearsay
5 objection. And if the Court would look on page 14, footnote
6 10, the Court will see the kinds of articles that the
7 Government readily admits it wants to -- it offered for the
8 truth of its contents. And if they are not going to do that
9 today, I can go more specifically at a later time into the
10 specific objections with respect to these newspaper articles.
11 But these are clearly hearsay.

12 THE COURT: What about these newspaper articles?

13 MR. JONAS: I don't think we readily admitted that
14 we are offering them for the truth. In the fact, quite to the
15 contrary. These were articles that were found in either HLF
16 or InfoCom, and in many instances -- Not all, but in some
17 instances they relate to conversations that the Defendants
18 had. They are offered to show the Defendants' state of mind.

19 In other words, there is a call between two of the
20 Defendants discussing one of the articles, and then we found
21 the article at HLF or InfoCom. I think it is perfectly proper
22 for us to introduce that article so the jury can see that this
23 is what they are talking about.

24 THE COURT: She listed four articles there.

25 MR. JONAS: Off the top of my head, I honestly don't

1 know which article goes to which issue I just addressed, and I
2 apologize for that. I think generally they are for the state
3 of mind of the Defendants.

4 Some of them are for the conversations. Some of them
5 just were found, for example, in Ghassan Elashi's office. It
6 goes to show his knowledge, what he has been made aware of
7 that is going on with Hamas and some of the Hamas leaders. So
8 it is a state of mind issue. It is not a truth issue.

9 THE COURT: And I have not looked at those
10 particular documents.

11 MS. MORENO: Your Honor, if he is offering it for a
12 state of mind, that is an exception to hearsay. I mean, it is
13 a hearsay document. And I believe if the Court looks at those
14 articles particularly, and allows me to argue further --
15 Unless they are getting into it this morning. Are you?

16 MR. JONAS: There may be one article we are getting
17 into this morning.

18 THE COURT: Which one is that one?

19 MS. CADEDDU: Your Honor, may I raise another issue
20 that is related, and that is that my client was not an
21 employee or board member of Holy Land, and so what I am
22 concerned about is these things that are found on Holy Land
23 premises that are being offered to show the Defendants' state
24 of mind, without some evidence that he had any connection to
25 that document, or exhibit, I believe I am entitled to a

1 limiting instruction.

2 THE COURT: Let me finish ruling on this. That is a
3 valid point, but we need to come back to that.

4 Mr. Jonas?

5 MR. JONAS: I am checking my order of exhibits for
6 this morning, and I haven't seen any that will be addressed
7 this morning.

8 THE COURT: This morning?

9 MR. JONAS: This morning. So if I am incorrect, I
10 will ask for a sidebar.

11 THE COURT: Approach the bench. And then if you get
12 into any this afternoon, be sure to let us know sometime
13 before we break for lunch so I can look at them over the lunch
14 hour, and I will take a look at them.

15 MR. WESTFALL: Your Honor --

16 THE COURT: Are you back on these newspaper
17 articles, or something else?

18 MR. WESTFALL: Just one very short thing on the
19 newspaper article.

20 Particularly on the Judith Miller article, that was an
21 exhibit that Judge Fish actually kept out. Please read it.
22 She has been very discredited as an author apparently some
23 time ago. And the article has some very serious 403
24 implications on top of the hearsay, and the fact that they are
25 offering it for the truth, Your Honor.

1 MS. MORENO: That is specifically the article I
2 wanted to address with Your Honor. I think you need to read
3 the article.

4 THE COURT: And I plan on it. I just haven't done
5 it yet. But you are saying you are not offering it for the
6 truth, these particular articles.

7 MR. JONAS: In fact, that particular article, if it
8 is the one I am thinking of, the Defendants in this
9 Philadelphia meeting that we are going to get to at some point
10 today, the participants in this Philadelphia meeting, because
11 I can't recall exactly who said it, but I think maybe the
12 Defendant Shukri Baker made this comment at least once, talk
13 about them being exposed, and exposed publicly. They use the
14 word marked or stamped. This Judith Miller article is what we
15 are going to offer to show this is what they are referring to
16 is them being marked or stamped as Hamas.

17 So it is not being offered for the truth. It is being
18 offered to show this is what they mean when they say they are
19 being marked or stamped. And it was found in the HLF.

20 THE COURT: All right. I will take a look at that
21 article. We will come back to that.

22 Anything else on the newspaper articles?

23 MS. CADEDDU: Just re-raising my objections about
24 the state of mind issues.

25 THE COURT: On the newspaper?

1 MS. CADEDDU: In other words, that is being offered
2 to show the Defendants state of mind.

3 THE COURT: I was going to get to yours in a minute.
4 I am trying to finish up the newspaper --

5 MS. CADEDDU: I don't want to waive anything, Judge.

6 THE COURT: Just hold on.

7 Anything else on the newspaper articles, as far as their
8 admissibility?

9 Marlo, your turn. I think I have your objection.

10 Mr. Jonas, do you want to respond?

11 MR. JONAS: I am not quite sure --

12 THE COURT: She says he was never an officer or
13 board director member of HLF, and you have these documents
14 that you are going to show state of mind of these HLF member
15 Defendants, whether they are officers or board of directors,
16 they are connected more directly to HLF. And she is concerned
17 if he is not an officer or director or board member -- Did I
18 get it right?

19 MS. CADEDDU: Yes. Or an employee, and he had no
20 office, and he wasn't there. And something that is found on
21 the HLF premises, unless they have some evidence to show that
22 he was aware of it, I don't know that that can go to his state
23 of mind, so I ask for a limiting instruction.

24 MR. JONAS: I am not quite sure -- I don't believe
25 that the co-conspirator joint venture requirement goes to

1 whether you are an officer or director. It is whether you are
2 a member of the joint venture. So the issue is whether or not
3 the jury finds him to be a member of the joint venture.

4 We are going to establish, using as an example this New
5 York Times article, that the Defendant Mufid Abdulqader was at
6 the Philadelphia meeting. And that is where they discuss
7 being stamped or marked. I believe it goes to weight.

8 If Ms. Cadeddu wants to argue that he was not that
9 associated with the HLF and he wasn't aware of these issues,
10 let her argue.

11 THE COURT: She is really not arguing that it is not
12 admissible. She is trying to get a limiting instruction as
13 to --

14 MS. CADEDDU: Let me be specific, Judge. There are
15 some that the Government is offering as co-conspirator
16 statements, and I don't think I am entitled to a limiting
17 instruction as to that. But when the Government is offering
18 something not as a co-conspirator statement, like these
19 newspaper articles that are being offered for state of mind, I
20 think they need some connection to my client in order to be
21 able to show that --

22 THE COURT: That is the point --

23 MR. DRATEL: Or any specific Defendant, Your Honor,
24 who is not in Dallas, because my client is in New Jersey and
25 then in San Diego. So if it is found in somebody's desk in

1 Dallas, I don't see how that applies to his state of mind,
2 unless they are connected in some way.

3 MS. CADEDDU: We are distinguishing that from the
4 co-conspirator statements, Your Honor.

5 MR. DRATEL: That are not offering the newspaper
6 article as a co-conspirator statement, a New York Times
7 article.

8 THE COURT: He says they are not offering it for the
9 truth, but to show state of mind.

10 MR. JONAS: Your Honor, I don't have so much of an
11 issue if there is an instruction that this could be viewed by
12 the jury for the Defendants' state of mind for those
13 Defendants that may be aware of them.

14 In other words, this particular newspaper article from
15 the New York Times that I say relates to the conversation at
16 the Philadelphia meeting, well, the Defendant Mufid Abdulqader
17 was in the Philadelphia meeting, so I don't think we can cut
18 him out from that.

19 Newspaper articles that are found in the desk or the
20 office of Ghassan Elashi that we are offering to show his
21 state of mind, I agree. Give a limiting instruction. That
22 should be held against Defendant Ghassan Elashi alone.

23 But I just want to make sure that we are not making a
24 general instruction that applies to all exhibits when there
25 shouldn't be.

1 MS. MORENO: And Your Honor, the article in question
2 is February of 1993. February of '93 is in the footnote that
3 I oriented the Court to.

4 THE COURT: I see that.

5 MS. MORENO: The Philadelphia meeting is eight
6 months later in October of 1993. It is a stretch to say that
7 eight months later these gentlemen are talking about, without
8 naming the article, without naming Judith Miller, that when
9 they are talking -- whatever conversation they are having,
10 they are referring to this article. So I think that the time
11 is also something that the Court should focus on.

12 THE COURT: All right.

13 MS. CADEDDU: Well, and I also -- Mr. Jonas keeps
14 saying that Mr. Abdulqader was at the Philadelphia meeting.
15 We are going to contest that rather vigorously. He was not at
16 that meeting. The translator who testified that he was there
17 said he was 80 percent sure, but he wasn't positive so he
18 didn't put his name on it. I mean, this is a huge issue.
19 This is the first time I have ever heard that testimony. That
20 did not happen at the first trial.

21 So, you know, Mr. Jonas can claim that he was at the
22 Philadelphia meeting. I know he wasn't. And that is going to
23 be a huge bone of contention. I wanted to make sure the Court
24 didn't take that as a given.

25 MR. DRATEL: And it has been conceded by the

1 Government that Mr. El-Mezain was not present at the
2 Philadelphia meeting.

3 MR. JONAS: I am not sure there is anything I have
4 to add on that. We are just going round and round.

5 THE COURT: And we are not to the newspaper articles
6 yet. It appears that you are willing to limit -- agree to
7 some limiting instruction as to at least Mr. El-Mezain who
8 wasn't there, or the newspaper articles that were found. Mr.
9 Jacks is shaking his head no. It doesn't sound like you are
10 in agreement to that.

11 MR. JACKS: Judge, I think the newspaper article is
12 relevant to show knowledge. The fact that they had it, you
13 can infer that they saw it when it came out and they kept it
14 for a reason.

15 THE COURT: But you are saying they and --

16 MR. JACKS: I understand.

17 THE COURT: The specific objection is like if one
18 was found in the desk of one of the Defendants.

19 MR. JACKS: And I think it is reasonable to infer if
20 one member of the conspiracy saw it and read it, that it was
21 conveyed to the others.

22 THE COURT: So you are not willing to concede a
23 limiting instruction, then.

24 MR. JACKS: No. Because they do in fact have
25 conversations later where they talk about these articles. And

1 that proves the point that the fact that these articles are
2 found in the possession of one of the co-conspirators, and the
3 evidence shows that they talk about these articles among
4 themselves, that the knowledge that it conveys to one
5 co-conspirator, it is permissible to infer that other
6 co-conspirators were made aware of those articles. Plus the
7 fact that it is in the New York Times. That is a pretty
8 widely circulated newspaper.

9 So the fact that these articles are imputed to show
10 knowledge, I don't think you can cut it off and say that these
11 other co-conspirators, therefore, didn't have any knowledge.
12 I think that is a matter for the jury to discuss and to weigh
13 and to decide.

14 MS. CADEDDU: Well, and Your Honor, again, when you
15 are offering it as a co-conspirator statement it is one thing.
16 When you are offering it to show state of mind, you need to
17 show that there is a connection to show state of mind.

18 And I also want to express a concern about this
19 monolithic "they." The Government is not going to offer any
20 conversations by my client where he talks about any of these
21 articles. There are two conversations they are offering.
22 Both have to do with fundraising, volunteer fundraising trips
23 that he took.

24 So, you know, I don't want to get swallowed up into this
25 monolithic "they," because there isn't any evidence of that.

1 It is not appropriate.

2 MS. HOLLANDER: Your Honor, can I just make sure
3 that we raised a 403 argument, because what I believe the
4 reason the Government wants to introduce particularly the
5 Judith Miller article is that it has a lot of information
6 about someone who was arrested in Israel that they are going
7 to try to link -- And the jury cannot decipher what is true
8 and what isn't. And the unfair prejudicial effect of these
9 newspaper articles, particularly that one, seriously outweighs
10 any probative value it has, and I think you will see that when
11 you read it.

12 THE COURT: All right.

13 Mr. Cline?

14 MR. CLINE: Your Honor, one other limiting
15 instruction issue with the newspaper articles. Of course, we
16 object to their coming in at all on hearsay and 403 grounds,
17 and so on.

18 If they do come in to show notice or knowledge or
19 something like that, we would ask that the jury be instructed
20 that they are not being admitted for the truth, but solely for
21 whatever purpose Your Honor decides to admit them.

22 MR. DRATEL: And Your Honor, I think Mr. Jacks'
23 construction of the law of inference is actually in reverse of
24 what it ought to be. You don't get an omnibus inference that
25 the Defense essentially has to disprove; that the Government

1 has to connect evidence in order to make evidence reasonable.

2 THE COURT: Okay. And I may need you to be more
3 specific at some point, Mr. Jacks, when you get to it. You
4 say there are phone conversations, so that is some evidence
5 that would with a link. But I think you need some specific as
6 to who are the parties to those phone conversations. And I
7 think that is the point Ms. Cadeddu makes is that her client
8 is not going to be involved in any of those conversations, so
9 you are trying to impute knowledge to him.

10 MR. JACKS: Your Honor, I will find out and make
11 that known to the Court which exhibits include those
12 conversations.

13 THE COURT: And who the parties are that are
14 discussing those articles?

15 Is the jury here?

16 Was there anything else on the HLF and InfoCom search
17 documents that we needed to address, besides those newspaper
18 articles? Ms. Moreno or anyone else?

19 MS. MORENO: Not at this point, Your Honor.

20 THE COURT: Those, then, the remainder of those are
21 admitted pursuant to the earlier rulings.

22 Anything else we need to address?

23 We will be in recess until we get the jury --

24 MR. DRATEL: The first part of the El-Mezain
25 documents really has to do with collateral estoppel. But the

1 second part, there is one specific conversation. I don't know
2 if the Court wants to hear argument on that. I don't know the
3 time of when you think you are going to get to that, this
4 morning, or --

5 MR. JONAS: I don't know what conversation you are
6 referring to.

7 MR. DRATEL: No. 27 or 12, however you denominate
8 it.

9 MR. JONAS: That won't be this morning.

10 THE COURT: What was the issue with that one?

11 MR. DRATEL: This was a conversation that -- Well,
12 we have a number of objections--403, collateral estoppel. I
13 think the collateral estoppel aspect of this is --

14 THE COURT: And do you know right off which
15 particular exhibit that is?

16 MR. DRATEL: Yes. It is El-Mezain Wiretap No. 27,
17 but also may be called No. 12.

18 MR. JONAS: It is not 27.

19 MR. DRATEL: No. 27 is the entire conversation.

20 MR. JONAS: No. 27 is a misprint. It is No. 12.

21 MR. DRATEL: So it is 12. El-Mezain Wiretap No. 12.

22 THE COURT: And I have No. 27 also listed. So that
23 should be No. 12?

24 MR. JONAS: No. 12, Your Honor.

25 THE COURT: All right. And then your particular

1 objection on that.

2 MR. DRATEL: Mr. El-Mezain has been acquitted of all
3 money laundering charges, and that is the inference the
4 Government wishes to draw from that conversation, which is
5 totally separate. It also raises the prospect of prejudicial
6 variance, and even ultimately perhaps an amendment in the
7 indictment because the specific allegations of money
8 laundering in this indictment, which Mr. El-Mezain has been
9 acquitted of, Mr. Odeh is part of that conversation as well.
10 So I am sort of making that argument at the same time, which
11 is that the money laundering is alleged to have been the
12 payments by HLF to the institutions overseas. This gets into
13 a totally separate issue which essentially could create
14 another theory for the Government to argue money laundering,
15 which wouldn't be proper, which is the notion of deposit
16 structuring, which has nothing to do with the concealment that
17 the Government is alleging or the transfers that the
18 Government is alleging, which has to do with where it is
19 going, not where it is coming from.

20 So it is completely outside the box of what these charges
21 are, and creates a real danger of the jury being misled and
22 confused.

23 THE COURT: Mr. Jonas?

24 MR. JONAS: Mr. Dratel's theory of our offer of
25 proof is wrong. This is a conversation between the Defendants

1 Mohammad El-Mezain and Abdulrahman Odeh that occurred about a
2 month or so after Hamas was designated initially as a
3 terrorist organization. They talk about structuring the
4 deposits of HLF's cash into the HLF bank account. They
5 mention about how the accounts are being watched.

6 It is our position that they intend on structuring, or
7 El-Mezain instructing Odeh to structure in order to conceal
8 from the government the fact that they are receiving all this
9 money. It is not a matter of the money laundering charges and
10 where it is going to. It is a matter of how they are
11 depositing their cash into their accounts right after Hamas is
12 designated, and their belief that their accounts are being
13 watched.

14 MR. DRATEL: But, Your Honor, that is -- It is not
15 what the conversation says in toto. But also it is exactly
16 what I am saying. They are alleging a separate money
17 laundering mechanism, which is not charged, which is not what
18 this case is about. This case is about where the money went
19 to. The notion of some concealment of where the money is
20 coming from, in other words, that contributions and their
21 amounts, has nothing to do with this case or the charges.

22 The other thing is that the reference in the calls is
23 that this is the way that this has always been done; that it
24 has been a practice to break these up. And the Supreme Court
25 case cited in our papers says you not only have to have an

1 intent to circumvent the reporting requirement, but have to
2 know it is illegal. There is nothing in the conversation that
3 would suggest that. So in that context it is not even really
4 a bad act. It doesn't even constitute it, but it is being
5 used for that inference, I think, in a way that would run
6 afoul of 403, as well at the collateral estoppel.

7 They are talking about charges that Mr. El-Mezain has
8 been acquitted on, not only with respect to collateral
9 estoppel but also with respect to double jeopardy, because in
10 effect they are trying to get him convicted on the basis of
11 charges that he was already acquitted on.

12 THE COURT: I understand the argument.

13 Anything else you want to add?

14 MR. JONAS: Briefly, this is for concealment
15 purposes. It goes to in total their actions in order to keep
16 away from the government, which is consistent with other
17 things they have done with the government--their behavior,
18 their connection to Hamas, all of that.

19 THE COURT: I think it could go to show knowledge.
20 But I haven't read the conversation. I will go back and take
21 a look at that.

22 MR. JONAS: Your Honor, just one quick point. We
23 have not received from Defense the exhibits they intend on
24 showing to Agent Burns. I am not sure when we are going to
25 get that. I am assuming it is closer to the time she is off

1 the stand. We may need another session like this.

2 THE COURT: I suspect we will need more than one.
3 We may do another one this afternoon, and then another one in
4 the morning if we need to, or at some point before we get to
5 the documents.

6 When do you expect -- Of course, I guess she will be on
7 direct for a number of days.

8 MR. JONAS: It is possible she could be off direct
9 by tomorrow the end of the day.

10 THE COURT: All right. Well, then, at some point if
11 you will make sure you give your list of exhibits, then, to
12 the Government so we can take those up, whether it be this
13 afternoon or tomorrow morning.

14 Anything else? The jury is here.

15 MS. HOLLANDER: Your Honor, I don't believe we can
16 give ours to the Government until we are finished with direct.
17 We are not going to be able to give them our cross
18 examination. We will give them to them as soon as she is off
19 direct.

20 THE COURT: And why do you think you can't do that?

21 MS. HOLLANDER: For a number of reasons. One is we
22 are not sure what they are until she finishes her direct.

23 Another is if we give them our exhibits -- You know, the
24 witness isn't supposed to know what you are doing on cross,
25 nor is the Government really, but certainly the witness is

1 not. And if we give them to them now, they just basically get
2 an advantage of incorporating whatever it is that -- kind of
3 getting a telescope of the cross.

4 We can do it, and we thought we were doing it the same
5 way we did it during the first trial, which is that as soon as
6 they finish their direct --

7 THE COURT: Except we have already had a trial here,
8 so I didn't see there was a big surprise.

9 MS. HOLLANDER: Well, I think there may be some
10 different exhibits. They may be exhibits being used
11 differently. They are using exhibits differently.

12 THE COURT: But they are giving you notice.

13 MS. HOLLANDER: And they are using new exhibits.

14 THE COURT: Yes, but they are giving you notice.

15 MS. HOLLANDER: They are giving us notice, and we
16 will give them notice as soon as she finishes direct, on the
17 condition that they not show them to the witness, of course.

18 THE COURT: That is fine. But if they are not going
19 to show them to the witness, then I don't see any reason why
20 you can't give them to them sooner than that so that they can
21 prepare their objections and we can have these hearings.

22 MS. HOLLANDER: If we know what they are.

23 THE COURT: And I can't accept that, counsel. I
24 can't accept that you haven't prepared your case sufficiently
25 to where you have some idea what your cross is going to be. I

1 know you don't start planning your cross after she testifies.

2 MS. HOLLANDER: We have some idea.

3 THE COURT: Of course.

4 MS. HOLLANDER: And I think that they know about.

5 THE COURT: They don't know that if you haven't told
6 them, anymore than you knew exactly what they were going to
7 put on unless they tell you. You have some idea from the last
8 trial, but they don't know.

9 MS. HOLLANDER: Your Honor, obviously we will do
10 what you require us to do.

11 THE COURT: That is what I am requiring you to do.

12 MS. HOLLANDER: But I think that it is really,
13 frankly, from our perspective -- And I will let -- Ms. Moreno
14 wishes to address that.

15 THE COURT: We will address that later. The jury is
16 already here. We will get started.

17 Mr. Dratel, is there something else?

18 MR. DRATEL: There is something I would like to
19 approach on for reasons that Your Honor will understand when I
20 approach. It will take one minute.

21 THE COURT: Approach the bench.

22 (The following was had at the bench.)

23 MR. DRATEL: I didn't want a conference already this
24 morning.

25 THE COURT: I didn't either.

1 MR. DRATEL: Now I see the courtroom filling up, so
2 I just wanted to raise this here for obvious reasons.

3 The Court indicated, and I don't know whether the Court
4 -- Thursday afternoon when we broke, the Court -- And I don't
5 know whether you were talking about this case or other matters
6 on the Court's docket when you said something about getting
7 stuff done Wednesday, which is the day that we are off.

8 THE COURT: That wasn't this conference that we held
9 this morning, but these kinds of conferences.

10 MR. DRATEL: Right. But regardless of how much
11 progress is made in the next two days with respect these types
12 of issues, I would object to proceeding Wednesday under any
13 circumstances in the case because I am -- It is a religious
14 holiday for myself, for my client, and I don't think he should
15 be disadvantaged by our exercise of religious freedom, and I
16 just sort of register a formal objection to proceeding
17 tomorrow.

18 THE COURT: You said one minute.

19 MR. DRATEL: Okay.

20 THE COURT: You are overruled.

21 (The following was had in open court.)

22 THE COURT: Bring in the jury.

23 (Whereupon, the jury entered the courtroom.)

24 THE COURT: Ladies and gentlemen of the jury, good
25 morning. We are ready to proceed.

1 Mr. Jonas?

2 MR. JONAS: Thank you, sir.

3 Q. (BY MR. JONAS) Good morning, Agent Burns.

4 A. Good morning.

5 Q. Before we move to the next subject matter, I just wanted
6 to briefly go over some of the questions and answers that we
7 had on Thursday just to clarify some things. Okay?

8 A. Okay.

9 Q. We discussed a document Elbarasse Search No. 8. Do you
10 recall that document?

11 A. I do. If you will give me one second. I have it.

12 Q. Okay.

13 MR. JONAS: If we can pull Elbarasse Search No. 8 on
14 the screen.

15 Q. (BY MR. JONAS) You had me at a disadvantage because I
16 don't have the exhibits with me. There are a lot of exhibits
17 we are going to go through today, so I didn't bother bringing
18 binders up like you have there.

19 In particular, this document discusses a trip taken by
20 the Defendant Shukri Baker to the West Bank and Gaza. Can you
21 tell us which page number that discussion is on.

22 A. That is on page 6, paragraph C.

23 Q. This discusses him going to the inside. And what is the
24 inside again?

25 A. Inside the Palestinian territories in Israel.

1 Q. We also discussed a report of the trip which was marked
2 as InfoCom Search No. 51. Do you recall that document?

3 A. I do.

4 Q. And we don't need to pull that one up. Who authored
5 InfoCom Search No. 51?

6 A. If you give me one second.

7 Q. Sure.

8 A. This was a report from Shukri Abu Baker.

9 Q. And does that reference the trip that was discussed in
10 Elbarasse Search No. 8?

11 A. It does.

12 Q. And there is also another report of a trip that was
13 marked or in evidence as Ashqar Search No. 2. Do you recall
14 that document?

15 A. I do.

16 Q. Do you know who authored that document?

17 A. I do not know who authored that document.

18 Q. Does that document relate in any way to the report
19 authored by the Defendant Shukri Baker in InfoCom Search
20 No. 51?

21 A. Yes, it does.

22 Q. How does it relate, based upon the exhibits you reviewed?

23 A. This document, the one we are referring to now, which is
24 Ashqar Search No. 2, is a report of a trip in 1991 to the
25 Palestinian territories by someone -- based on the content, by

1 someone within the Palestinian Committee. They were reporting
2 on Hamas activities in the territories.

3 In that document, if you will turn to page 11 --

4 Q. Which exhibit is this? InfoCom Search No. 51?

5 A. Ashqar Search No. 2.

6 MR. JONAS: Ashqar Search No. 2, page 11.

7 THE WITNESS: Under Section K, the individual who
8 wrote this is reporting on activities in the Gaza area, which
9 is in the Palestinian territories.

10 Q. (BY MR. JONAS) And that is reflected in this document,
11 the Gaza Sector?

12 A. Yes. At the top you will see where it says the south
13 region and refers to the Gaza Sector. And throughout this it
14 refers to the Movement, which is Hamas.

15 And under Section K, at the bottom if you will look, it
16 says, "The brothers asked Dr. Al-Zahar to open a center for
17 studies and research, and he approved that." Doctor Al-Zahar,
18 as we identified last week, is Hamas leader Mahmoud Al-Zahar.

19 MR. JONAS: Your Honor, for the record I am going to
20 hold up Demonstrative No. 17.

21 Q. (BY MR. JONAS) And he is here on this chart here?

22 A. The closest to you.

23 Q. Where I am pointing?

24 A. Yes. So this document is reporting that the brothers met
25 with that individual to discuss opening a center for studies

1 and research. This document is based on a trip in 1991.

2 If you will turn back to Shukri Abu Baker's report from
3 1991 and turn to -- that exhibit number is InfoCom Search
4 No. 51. If you will turn to page 11 under "Gaza," Shukri Abu
5 Baker reported that he met with Mr. Abu Khalid, Abu Nasser,
6 and some other officials. They discussed with Mr. Abu Khalid
7 the subject of building a research organization. Abu Khalid
8 is the nickname for Hamas leader Mahmoud Zahar.

9 So the way I connected these two reports is that the
10 individual who wrote Ashqar No. 2, the Hamas report, the
11 Palestinian Committee member was actually reporting on Shukri
12 Abu Baker's meeting with Hamas leader Mahmoud Zahar.

13 Q. Okay. Agent Burns, if you recall, when you testified on
14 Thursday I showed you Hamas Charter No. 2, which is in
15 evidence, and that is the Arabic version of the Hamas charter.
16 Do you recall that?

17 A. I do.

18 Q. Okay. Who published that document?

19 A. The IAP.

20 Q. Did you find -- Where was that document found, if you
21 recall?

22 A. That one was found at the home of Ismail Elbarasse.

23 Q. Do you have before you Hamas Charter No. 1, which is not
24 in evidence?

25 A. I do not have the Hamas charters here.

1 MR. JONAS: Your Honor, one moment, please?

2 THE COURT: Yes.

3 Q. (BY MR. JONAS) I am referring to Hamas Charter No. 3.

4 MR. JONAS: And if I may approach, Your Honor?

5 THE COURT: Yes.

6 Q. (BY MR. JONAS) Where was that document found?

7 A. This document was found at the home of Ismail Elbarasse.

8 Q. And without going into the contents, what is it?

9 A. It is the English version of the Hamas charter.

10 MR. JONAS: Your Honor, at this time I would offer
11 into evidence Hamas Charter No. 3.

12 THE COURT: Any objections beyond what we have had?
13 That is admitted.

14 Q. (BY MR. JONAS) Agent Burns, you testified based upon the
15 Elbarasse search documents about a relationship between the
16 Holy Land Foundation the Islamic Association of Palestine.
17 Just to go back to that, what was the relationship between
18 those two organizations, from the Elbarasse search documents?

19 A. Based on all the exhibits that we reviewed last week,
20 they were members of the Palestine Committee whose job it was
21 to support Hamas, according to the 1992 memorandum from the
22 international Muslim Brotherhood.

23 MR. JONAS: And if we can quickly pull up Elbarasse
24 Search No. 10 on the screen.

25 Q. (BY MR. JONAS) Do you see the HLF and IAP on this chart?

1 A. I do.

2 Q. And does that support your statement about what you made
3 about the relationship between the HLF and the IAP?

4 A. It does. As we discussed on Thursday, the Central
5 Committee was the Palestine Committee.

6 Q. Have you reviewed the Baker deposition that we discussed
7 the other day?

8 A. Yes, I have.

9 Q. And in the Baker deposition does the Defendant Shukri
10 Baker discuss the relationship between the HLF and the IAP?

11 A. He is asked about it.

12 MR. JONAS: If we can put page 5 of that deposition
13 on the screen. If we can enlarge it.

14 Q. (BY MR. JONAS) Do you see where it says --

15 MR. JONAS: One moment, Your Honor.

16 Q. (BY MR. JONAS) Agent Burns, do you have deposition page
17 64 and 65 in front of you?

18 A. I do.

19 Q. Okay.

20 MR. JONAS: We are trying to get it on the screen,
21 Your Honor. I think because it is a Monday morning the
22 computer is a little groggy.

23 And if you can enlarge the right hand column.

24 Q. (BY MR. JONAS) Can you read the question and the answer
25 regarding the relationship between the HLF and the IAP?

1 A. I can. The question that the lawyer asked is, "Now, you
2 understand" --

3 Q. Agent Burns, let me provide you my copy.

4 A. I will read it off the screen. "Are you aware of any
5 relationship or affiliation of any sort between that entity
6 IAP and HLF?"

7 Shukri Abu Baker's answer is, "No affiliation. But what
8 do you mean by relationship? Can you itemize that?"

9 And the question, "Well, did you undertake any programs
10 together, work together in -- in any fashion?"

11 Answer: "We had a business relationship with the IAP."

12 Question: "Okay. Can you describe for me in general
13 terms the nature of that business relationship?"

14 Answer: "We advertised with their paper, and we used
15 their graphic design services. There were invoices for that,
16 and we had a contract to help us through their grass roots
17 volunteers, help the Foundation through its grass root and
18 volunteers to help dispense Holy Land Foundation literature
19 and fund raising material."

20 Question: "I've seen some indication that -- somewhere
21 that indicated that you were a member of an IAP advisory
22 board."

23 Answer: "Yes."

24 Question: "What was -- What was the advisory board?"

25 Answer: "You know, we would meet once a year, just

1 discuss overall issues, strategies."

2 Q. That is fine. Agent Burns, has Shukri Baker discussed
3 the HLF and IAP being part of the Palestine Committee in his
4 deposition?

5 A. No, he does not.

6 Q. Was the Defendant Mohammad El-Mezain also deposed in the
7 same lawsuit?

8 A. He was.

9 Q. And do you have his deposition before you?

10 A. I do.

11 Q. Okay.

12 MR. JONAS: Your Honor, at this time, subject to the
13 discussion prior, I would offer into evidence the Defendant
14 Mohammad El-Mezain's deposition.

15 MR. DRATEL: Your Honor, based on what Mr. Jonas is
16 doing now, and subject to the other previous objections --

17 THE COURT: Give me that exhibit number again.

18 MR. JONAS: The exhibit is Exhibit El-Mezain
19 deposition is the title of the exhibit.

20 THE COURT: That is admitted.

21 Q. (BY MR. JONAS) Agent Burns, could you turn to page 25?
22 It is deposition page 25.

23 A. Okay.

24 MR. JONAS: I believe for purposes of putting it on
25 the screen, it is page 5. If you could enlarge the top left

1 hand corner.

2 Q. (BY MR. JONAS) Starting with the question on line 2.

3 THE COURT: Counsel, what are the dates of these
4 depositions? Has that been established?

5 Q. (BY MR. JONAS) For the record, the date of this
6 deposition is what, Agent Burns?

7 A. The date of this deposition is September 10th, 2003.

8 Q. And the date of the Baker deposition?

9 A. January 30th, 2003.

10 Q. Okay. If you can read this page, please.

11 A. It says -- Mohammad El-Mezain's answer is, "You're
12 right." Question: "The MAYA conferences that you're
13 referring to, do you recall where those were held?"

14 Answer: "I Don't recall exactly what one of them."

15 Question: "Do you recall where whether any of them were
16 in Kansas City?"

17 Answer: "I don't recall."

18 Question: "The MAYA conferences where you met Mr. Ahmad
19 was either one of you a speaker at the conference?"

20 Answer: "No."

21 Question: "No? Have you had any personal dealings with
22 Mr. Ahmad outside of the MAYA conferences --"

23 Answer: "No."

24 Question "-- you testified about."

25 Q. Let me interrupt you for a moment. Based upon Elbarasse

1 Search No. 10, is that the document that listed out the
2 members of the Palestine Committee?

3 A. Yes.

4 Q. Who is Mr. Ahmad?

5 A. Ahmed Yousef.

6 Q. Continue please. And is Ahmad Yousef one of the
7 individuals listed in the Palestine Committee document?

8 A. He is. You will see him referenced both as Ahmed Yousef
9 and Yousef Saleh.

10 Q. Is the Defendant Mohammad El-Mezain also listed as a
11 members of the Palestine Committee on that document?

12 A. Yes, he is.

13 Q. Please continue reading.

14 A. Question: "Do you know a man by the name of Ismail
15 Elbarasse?"

16 Answer: "Yes."

17 Question: "How is it you know Mr. Elbarasse?"

18 Answer: "One of the MAYA conferences also."

19 Question: "Do you recall where that MAYA conference was
20 held?"

21 Answer: "I don't know. MAYA conferences, years, too
22 long."

23 Question: "Do you recall roughly what the time frame was
24 you met Mr. Elbarasse at a MAYA conference?"

25 Answer: "Is in the eighties."

1 Question: "How about Mr. Omar Ahmad? Can you tell me
2 the time frame?"

3 Answer: "It is in the eighties."

4 Question: "So you met both of these gentlemen at MAYA
5 conferences in the eighties?"

6 Answer: "Yeah."

7 And excuse me. I was referring to another part of the
8 deposition. When he said Mr. Ahmad, he was referring to Mr.
9 Omar Amhad not Ahmed Yousef.

10 Q. Who is Omar Ahmad?

11 A. He was a member of the IAP, also a member of the
12 Palestine Committee.

13 Q. Is he on the same list of the Defendant El-Mezain in
14 Elbarasse Search No. 10?

15 A. Yes, he.

16 Q. Agent Burns, was the Defendant Mohammad El-Mezain
17 questioned about the relationship between the HLF and the IAP
18 in his deposition?

19 A. Yes, he was.

20 Q. If you can turn to deposition page 87.

21 MR. JONAS: Which I believe is page 8 for the
22 purposes of pulling it up on the screen. No, I was wrong.
23 Take that down.

24 Q. (BY MR. JONAS) Agent Burns, just read on deposition page
25 87 line 15 where the Defendant El-Mezain discusses a

1 relationship between the HLF and IAP.

2 A. Give me one second to see where it begins.

3 Q. Line 15 on page 87.

4 A. Okay. The question is, "Do you know of any relationship
5 or dealings that any of you principals of the Holy Land
6 Foundation had with the Islamic Association for Palestine in
7 January of 1989 that would have caused IAP to know about the
8 Occupied Land Fund and what it was doing?"

9 Answer: "No. Actually we -- You asked me before about
10 the people of IAP, and I said to you we know these people but
11 we don't have any relation with them, and they know that we
12 have established Occupied Land Fund in that time. Not only
13 the IAP actually, it became like, let me see, a custom with
14 the Muslim organizations to recommend a good organization for
15 the good cause."

16 Q. Again, Elbarasse Search No. 10, what does that document
17 indicate the relationship between the IAP and HLF is?

18 A. That they were both organizations within the Palestine
19 Committee working together.

20 MS. MORENO: Excuse me, Your Honor. I apologize for
21 interrupting. With respect to both the Baker deposition and
22 the El-Mezain deposition, we would ask on behalf of Mr. Elashi
23 for a limiting instruction to the jury.

24 THE COURT: And we will come back to that later.

25 Go ahead.

1 Q. (BY MR. JONAS) Agent Burns, were there any -- Withdrawn.
2 In the Elbarasse search documents, do you recall there being
3 discussions about there being Palestine committees in other
4 countries?

5 A. I do.

6 Q. Was there one document that discussed any of the
7 Defendants traveling to another country in order to help
8 establish the Palestine Committee?

9 A. Yes. That Occupied Land Fund report we discussed
10 earlier.

11 Q. And what did that say, if you recall? If not, we can
12 pull the exhibit up on the screen. And we discussed that on
13 Thursday. Correct?

14 A. We did. And I have the exhibit here and I can tell you
15 what it says. It was Elbarasse Search No. 8. And under that
16 page 6 -- Do you --

17 MR. JONAS: If we can put it on the screen.

18 Q. (BY MR. JONAS) Which exhibit is this?

19 A. Elbarasse Search No. 8, page 6. No. 8 at the bottom
20 under the Central Committee for charity work, it says,
21 "Brother Ghassan," which is the Defendant Ghassan Elashi, "is
22 currently on a visit to Britain representing the Fund in order
23 to study the possibility of forming a Central Committee for
24 charity work affiliated with the Apparatus in all the
25 countries with the goal of coordination, exchange of

1 experience, and finding the best ways to increase donations,
2 and to quickly respond to the request of the people inside."

3 MS. HOLLANDER: Excuse me. Your Honor, I am just
4 going to object to just repeating testimony here that the jury
5 already heard on Friday, and object to repeating the
6 testimony, exactly the same testimony.

7 THE COURT: Overrule the objection. He is
8 connecting it to a new exhibit. Go ahead.

9 Q. (BY MR. JONAS) Agent Burns, were there any phone
10 conversations involving the Defendants where they discussed
11 the Palestine Committee in another country?

12 A. Yes.

13 Q. Do you have before you HLF Wiretap No. 2? I know you
14 have several binders you need to look through.

15 A. If you will bear with me. I have it.

16 Q. Okay. Who are the participants on that call?

17 A. The Defendant Shukri Abu Baker, Akram Mishal.

18 Q. Who is Akram Mishal?

19 A. He was an HLF officer. And Ramsey Abu Baker.

20 Q. What is the date of the call?

21 A. June 25th, 2001.

22 MR. JONAS: Your Honor, at this time I would offer
23 into evidence HLF Wiretap No. 2.

24 THE COURT: And those have been admitted. Those
25 ones we admitted this morning. Are you also offering 2-A?

1 MR. JONAS: Yes. Thank you, Your Honor.

2 Q. (BY MR. JONAS) Agent Burns, I don't want to play the
3 whole call now. I think there are going to be portions that
4 we will address later on. But if you can turn to page 4 of
5 that transcript of HLF Wiretap No. 2.

6 Agent Burns, do you see the line where it starts "AK"?

7 A. I do.

8 Q. Who is that?

9 A. That is Akram Mishal, the HLF officer.

10 Q. And where it says "SH" underneath that, who is that?

11 A. That is Shukri Abu Baker.

12 Q. Okay.

13 A. The Defendant.

14 Q. I just want you to read this page and then some of the
15 next page, if you would, please?

16 A. Okay. Akram Mishal says, "Hello."

17 Shukri says, "Peace be upon you."

18 "Upon you be peace."

19 "How are you?"

20 "Praise be to God. What's new?"

21 "Good."

22 "This guy, a person named Mahmoud Ghazal called me from
23 Jeddah. Who is he?"

24 Akram Mishal says, "I believe he's from the Palestine
25 Committee."

1 "Hmm."

2 "When did he call you? Today?"

3 "He left me a message today."

4 "Where? At home or --"

5 "No, on the -- At the foundation."

6 Q. And the top of the next page.

7 A. "Strange. Its possible that he left it and someone
8 transferred it to you."

9 "Hmm."

10 "Yes, yes. Maybe I called him or I sent him a fax."

11 "Yes. They are from the Palestine Committee in the world
12 assembly."

13 "Yes, yes."

14 "Uh-huh."

15 "Okay. Call him and see what he wants. I wanted to --"

16 Q. That is good enough. That is fine.

17 Agent Burns, I want to move away to another subject, and
18 I want to talk to you about the HLF money in the early years
19 of the Holy Land Foundation's life. Okay?

20 Do you recall some of the Elbarasse documents talked
21 about how much Holy Land Foundation raised in those early
22 years and sent over to the West Bank and Gaza?

23 A. Yes.

24 Q. Did you review any records that talk about how much money
25 was sent over to those areas?

1 A. I did.

2 Q. And I don't want to be that specific. I am just talking
3 about any money that they sent out from their bank accounts at
4 all.

5 A. Yes. I reviewed their bank account records from the bank
6 account they held at NAIT.

7 Q. Did you review other records as well?

8 A. I did. I reviewed search warrant material, things like
9 that.

10 Q. Generally, without getting into the description of
11 specific items, can you just summarize what you reviewed, what
12 it revealed?

13 A. Are you talking about a specific year or --

14 Q. 1988.

15 A. 1988. The financial documents from the bank accounts and
16 the search warrant material, actually from the bank account I
17 think pretty much solely, indicated that a majority of the
18 HLF's money during that year was distributed to Mousa Abu
19 Marzook, his associates, and other individuals and entities
20 that were part of the Palestine Committee.

21 Q. Did you create a chart that summarizes these
22 transactions?

23 A. I did.

24 Q. Do you have before you what has been marked as OLF 1988
25 Disbursements?

1 A. I do.

2 Q. Is this chart based upon documents currently in evidence?

3 A. Yes.

4 Q. Would this chart aid the jury in understanding your
5 testimony?

6 A. Yes, it will.

7 MR. JONAS: Your Honor, at this time I would offer
8 into evidence OLF 1988 Disbursements.

9 MS. HOLLANDER: We have no objection, assuming it is
10 accurate, Your Honor.

11 THE COURT: That is admitted.

12 MS. HOLLANDER: Actually I do have one objection
13 which is remoteness, 1988.

14 THE COURT: That is overruled.

15 MS. CADEDDU: Is this a demonstrative?

16 THE COURT: No, ma'am. They are offering it --

17 MR. JONAS: As a 1006 summary chart.

18 THE COURT: OLF 1988 is admitted.

19 MR. JONAS: Can we put the first page on the screen,
20 please?

21 Q. (BY MR. JONAS) Agent Burns, before we get into the
22 substance of the transactions, I would like you just to
23 explain to us how this chart is constructed.

24 A. Okay. The chart is constructed hopefully to make it easy
25 to understand this mountain of bank records that we have.

1 The first column includes the date of the transaction.
2 The next column indicates the source, where the payment in
3 that transaction came from. In this chart in particular, all
4 of the payments came from the Holy Land Foundation when it was
5 known as the Occupied Land Fund.

6 Q. Let me interrupt you as you go along. It says underneath
7 the Occupied Land Fund "North America Islamic Trust." What is
8 that?

9 A. That is NAIT, the Muslim Brotherhood organization that we
10 spoke about last week, and that is the entity through which
11 the HLF held its initial bank account.

12 Q. Okay. Continue.

13 A. Under the next section which is entitled "Authorization,"
14 on this chart it merely indicates whether or not the
15 transaction was done with a wire transfer or a check or
16 whether there was an expense voucher, and if on a particular
17 transaction an individual was linked to the transaction. For
18 example, if the Defendant Shukri Abu Baker requested the
19 transfer, his name will appear in this column as well.

20 The next column is the amount of the transaction. The
21 following column is the destination. That is to whom the
22 payment was made. And finally, the last column is the column
23 for exhibit number, which tells you the exhibit number and
24 specific page that you can go to and look at to see the actual
25 item that represents what is noted on this chart.

1 Q. And in that particular column there is an I next to some
2 of the page numbers and an S. What does that mean?

3 A. I represents the item, whether it be a check or expense
4 voucher or something like that. S would indicate the actual
5 statement.

6 And on this I would need to note that NAIT was not a
7 traditional bank like we are used to seeing, so the records
8 from NAIT appear different. There are a lot of handwritten
9 records and the bank statements look different than what you
10 would expect to see from a Bank of America, for example.

11 Q. When you look under authorization, just looking at the
12 first one as an example where there is a check and the number,
13 what does that number represent? Do you see 702648?

14 A. That would be like the transaction number.

15 Q. Okay. Or the check number?

16 A. The check number.

17 Q. Underneath that it says EXP voucher. What does that
18 mean?

19 A. Expense voucher.

20 Q. Where do you get that from?

21 A. From the records themselves.

22 Q. Well, let's look at some of these transactions. We are
23 on the first one. We see its destination to MAYA. Have we
24 seen MAYA somewhere else in some of the documents already
25 admitted?

1 A. We have. It was referenced on some of the documents that
2 we looked at on Thursday indicating that it was part of the
3 Muslim Brotherhood's organizations. If you will recall, the
4 document that was in Arabic that had the last page attached to
5 it with the list in English of the "organizations of our
6 organizations the organizations of our friends," it was listed
7 there. It was also listed on that chart that we saw of the
8 Muslim Brotherhood's apparatuses, and Shukri Abu Baker's name
9 was affiliated with it.

10 Q. Okay. Getting back to the first document you referenced
11 that had the list of the Muslim Brotherhood organizations, to
12 be clear, is that Muslim Brotherhood organizations in the
13 United States?

14 A. That is correct.

15 Q. And on that same list was the HLF mentioned?

16 A. Yes, it was.

17 Q. Okay. The next transaction you see is a \$10,000 check to
18 Yousef Salah. Do you know who Yousef Saleh is?

19 A. Yes. He is one of the members of the Palestine Committee
20 who was a part of the United Association for Studies and
21 Research, the UASR.

22 MR. JONAS: If we can pull up what is in evidence
23 Secretary of State VA-1, please, page 2 of that document.
24 Enlarge the bottom half, please.

25 Q. (BY MR. JONAS) What is this document again, Secretary of

1 State VA-1?

2 A. These are the articles of incorporation for the United
3 Association for Studies and Research.

4 Q. And what is that organization again?

5 A. That was the -- We call it the UASR. It was listed on
6 several of those documents you saw on Thursday, and is part of
7 the Palestine Committee.

8 Q. So what does this identify Yousef Salah's role with the
9 UASR?

10 A. On this part it lists him as a director.

11 MR. JONAS: If we can turn to page 3, please.

12 Q. (BY MR. JONAS) And we see that again his name as a
13 director?

14 A. That is correct.

15 Q. Does this document also have Mousa Abu Marzook as an
16 individual associated with the UASR?

17 A. From the earlier papers, yes, it does.

18 Q. We covered that last week. Correct?

19 A. We did.

20 MR. JONAS: If we can go back to the OLF 1988
21 disbursements, please, page 1.

22 Q. (BY MR. JONAS) Agent Burns, how many pages is this
23 chart?

24 A. Four pages.

25 Q. Do you know every recipient on there? Are you able to

1 identify every recipient?

2 A. No. There are some on here that I wasn't able to
3 identify, but I know a lot of them.

4 Q. We see Fawaz Mushtaha, who is receiving a \$20,000 wire on
5 April 15th, 1988. Do you see that document?

6 A. I do.

7 MR. JONAS: Why don't we pull up NAIT Exhibit page
8 5, which references the supporting document for that
9 transaction.

10 Q. (BY MR. JONAS) Do you see that document before you,
11 Agent Burns?

12 A. I do.

13 Q. What is that?

14 A. This is a request for a wire transfer to Fawaz Mushtaha
15 for \$20,000. And it is noted at the bottom, if you will look,
16 it says "customer account, Occupied Land Fund."

17 Q. Who was Fawaz Mushtaha?

18 A. He was the Palestine Committee member whose yard the
19 videotapes were found in.

20 Q. Is he also in the band?

21 A. He is.

22 Q. Okay.

23 A. Or was.

24 Q. Going down on this -- Staying with the same page, do you
25 recognize any other members of the Palestine committee on the

1 document you already discussed?

2 A. On the disbursement schedule on page 1?

3 Q. Yes.

4 A. Yes. I think it is not on the screen yet.

5 MR. JONAS: Pull up 1988 OLF Disbursements.

6 THE WITNESS: The person listed after Fawaz Mushtaha
7 is Hamas leader Mousa Abu Marzook.

8 MR. JONAS: If we can turn to the second page of
9 this document.

10 Q. (BY MR. JONAS) And do you see there is a transaction to
11 an individual named Nadia Elashi?

12 A. Yes.

13 Q. And if we can -- Who is Nadia Elashi, if you know?

14 A. She is the wife of Hamas leader Mousa Abu Marzook and the
15 cousin of the Defendant Ghassan Elashi.

16 Q. Okay.

17 MR. JONAS: If we can turn to the third page,
18 please.

19 Q. (BY MR. JONAS) Do you see there is \$50,035 wire to a
20 company called K&A Overseas Trading?

21 A. Yes. There are a number of those transactions on this
22 page to K&A.

23 Q. Did you create a sort of sub chart to K&A Trading?

24 A. I did.

25 Q. We will get to that in just a moment.

1 Did you also create a summary chart for the 1989 OLF or
2 HLF Disbursements.

3 A. I did.

4 Q. And do you have that before you?

5 A. I do.

6 Q. What is that sub chart -- What is that chart based upon?

7 A. It is a summary of the HLF disbursements in the year
8 1989, its second year of operation.

9 Q. And do these come from the NAIT records as well, like the
10 prior chart?

11 A. Yes.

12 MR. JONAS: Your Honor, at this time I would offer
13 into evidence Government's exhibit OLF 1989 Disbursements.

14 THE COURT: Same objections?

15 MS. HOLLANDER: Same objections, Your Honor.

16 THE COURT: Those are overruled, and that is
17 admitted.

18 MR. JONAS: If we can pull that on the screen,
19 please, page 1.

20 Q. (BY MR. JONAS) Agent Burns, do you see that before you?

21 A. I do.

22 Q. All right. Do you see the second transaction on that
23 screen, January 23rd, 1989?

24 A. I do.

25 Q. You testified Nadia Elashi is Mousa Abu Marzook's wife?

1 A. That is correct.

2 MR. JONAS: If we can pull up the NAIT records, page
3 37.

4 Q. (BY MR. JONAS) What is that item on the screen?

5 A. That is a check from NAIT out of the Occupied Land Fund's
6 account to Nadia Elashi for \$10,000 on January 23rd, 1989.

7 Q. During the course of your investigation, did you come
8 across anything indicating whether Nadia Elashi was a charity
9 or needy person?

10 A. No, I did not.

11 Q. Going back to the 1989 disbursements, please, do you see
12 there are payments made to the Islamic Center of Gaza?

13 A. Yes.

14 Q. Did you create a sub chart of those payments as well?

15 A. I did.

16 Q. How much money was paid out? If you go to the third
17 page.

18 A. In 1989, approximately \$956,705.

19 Q. Did you come across anything in the documents that
20 indicated how much HLF claimed to have made or taken in
21 donations in 1988 and '89?

22 A. I found some documents in English that indicated what
23 they said they made in those two years.

24 Q. Do you have HLF Search No. 7 before you?

25 A. I do.

1 Q. Okay. Does that document indicate how much was received
2 by the HLF in these early years?

3 A. Yes.

4 MR. JONAS: Your Honor, at this time I would offer
5 into evidence HLF Search No. 7.

6 THE COURT: That is admitted from this morning.

7 MR. JONAS: If we can put that on the screen,
8 please.

9 Q. (BY MR. JONAS) Does this indicate how much money the HLF
10 made in 1988?

11 MR. JONAS: If we can enlarge the middle half,
12 please?

13 Q. (BY MR. JONAS) I am sorry. Before we do that, what is
14 the document entitled?

15 A. This document, which came from the HLF -- one of the
16 computers in the HLF offices, was originally in English and is
17 titled "The Holy Land Foundation: A story of growth and
18 prosperity."

19 MR. JONAS: If we can enlarge the middle half where
20 it says "Income."

21 Q. (BY MR. JONAS) How much income did they receive in 1988?

22 A. The stated income here is \$300.

23 Q. And how about 1989?

24 A. \$400.

25 Q. Did you come across any other documentation that

1 indicates how much money they may have received in 1989?

2 A. I did.

3 Q. Do you have before you HLF Search No. 8?

4 A. I do.

5 Q. Okay. Does that document indicate income from the HLF?

6 A. It does.

7 MR. JONAS: Your Honor, at this time I would offer
8 into evidence HLF Search No. 8.

9 THE COURT: And that is admitted.

10 MR. JONAS: If we can put the first page on the
11 screen, please.

12 Q. (BY MR. JONAS) For the year 1989 how much -- Well,
13 withdrawn. What does this document purport to be?

14 A. It is an IRS Form 8734 that was found at the HLF's Dallas
15 office, and it says "support schedule for advance ruling
16 period." It basically contains records regarding income for
17 the Holy Land Foundation between 1989 and 1993.

18 Q. Agent Burns, does it have a date on the top right hand
19 side?

20 A. It does. April 1st, 1994.

21 Q. Do you know -- You are not an IRS agent. Right?

22 A. No, I am not.

23 Q. Do you know what the purpose of this form is?

24 A. No, I don't.

25 Q. Outside of seeing this document itself, have you studied

1 these forms?

2 A. I have not.

3 Q. Line 1 says "Gifts, grants, and contributions received."
4 How much do they indicate in this document that they received
5 in 1989?

6 A. \$210,275.

7 Q. Do you have -- Did Shukri Baker ever publicly say how
8 much they received in 1989?

9 A. Yes, he did.

10 Q. Okay. Do you have before you what is marked as Baker
11 Declaration?

12 A. I do.

13 Q. And without getting into details, what is Baker
14 Declaration?

15 A. This is a written sworn statement by Shukri Abu Baker to
16 a federal court.

17 Q. Part of a lawsuit?

18 A. It is.

19 MR. JONAS: Your Honor, at this time I would offer
20 into evidence Baker Declaration.

21 MS. HOLLANDER: Nothing beyond, Your Honor.

22 THE COURT: All right. That is admitted.

23 MR. JONAS: If we can put page 2 on the screen,
24 please.

25 Q. (BY MR. JONAS) Agent Burns, in this item how much is

1 Shukri Baker saying HLF took in for 1989 or 1990, at least?

2 A. And just for reference, the document is dated April 4th,
3 2002, and on page 2, no. 13, it says, "Because...has taken our
4 records, I am providing many of the financial and other
5 details from memory. During our first year of fundraising
6 ending in 1990, we raised approximately \$700,000. Because the
7 Intifada was going on in Palestine, we focused our charity on
8 orphans, food, and aid to hospitals."

9 Q. So he is saying 1990 was their first year of fundraising?

10 A. That is what he says in this sworn statement.

11 Q. In the 1989 OLF Disbursements, how much did the OLF
12 disburse again?

13 A. To be accurate, let me check. In 1989, \$956,705.

14 Q. Did you come across any item in your review of the search
15 warrant material, or all the material, indicating where they
16 would have gotten \$956,000 from?

17 A. Not other than -- No.

18 Q. We talked a moment ago about these charts I asked you,
19 charts that came from the 1988 and 1989 disbursements.

20 A. Yes.

21 Q. Do you recall that?

22 A. I do.

23 Q. Okay. We saw on one of the charts were payments to --
24 Correct me if I am wrong. On one of the charts do we see
25 payments to an organization known as the Islamic Center of

1 Gaza?

2 A. Yes. That was the 1989 disbursement chart.

3 Q. And do you know what the Islamic Center of Gaza is?

4 A. Yes, I do.

5 Q. Have you seen anything in any of the search warrant
6 material of the HLF that indicates what that entity or
7 organization is?

8 A. Yes.

9 Q. Do you have before you HLF Search No. 108?

10 A. I do.

11 Q. What is that item?

12 A. This is a Middle East Affairs Journal from the summer of
13 1996 published by the UASR found at the Holy Land Foundation.

14 Q. And does this Middle East Affairs Journal indicate
15 anywhere anything about the Islamic Center for Gaza?

16 A. It does.

17 MR. JONAS: Your Honor, at this time I would offer
18 into evidence HLF Search No. 108.

19 THE COURT: And that is admitted.

20 Q. (BY MR. JONAS) Agent Burns, if you can turn to page 105
21 of this document.

22 A. I have it.

23 Q. Do you see -- On the top of 105, what does it say about
24 the Islamic Center of Gaza?

25 A. It says --

1 Q. If you can read --

2 A. I am sorry. I have too many binders. It says, "In order
3 to manage the Palestinian Brotherhood's daily activities,
4 however, Yassin established al-Mujamma' al-Islami (The Islamic
5 Center) in Gaza. He served as its secretary general until
6 1984. The Center eventually coordinated the activities of all
7 organizations administered by the local Brotherhood."

8 Q. Is the word in brotherhood in caps?

9 A. It is.

10 Q. Indicating it is an entity?

11 A. Yes.

12 Q. And let me just show you again Demonstrative No. 17. It
13 says Yassin. Who is Yassin?

14 A. The founder and former spiritual leader of Hamas; the one
15 in the middle on the top.

16 Q. Sheikh Ahmed Yassin?

17 A. That is correct.

18 Q. By the way, does this article identify any other member
19 of Hamas we just saw on the chart, Demonstrative No. 17? And
20 to make it easier for you, I will direct your attention to
21 page 106, the bottom half.

22 A. It does.

23 Q. And that particular paragraph --

24 MR. JONAS: Can we get the elmo?

25 Q. (BY MR. JONAS) Do you see what the title of that

1 particular section of this article is?

2 A. I do.

3 Q. What is that?

4 A. " Hamas."

5 MR. DRATEL: I just object on hearsay grounds, Your
6 Honor, this journal.

7 THE COURT: That has been admitted. That has been
8 overruled and that is admitted. That is HLF Search No. 108?

9 MR. JONAS: Yes.

10 THE COURT: That has been admitted.

11 MS. CADEDDU: This would be one of the documents I
12 would request a limiting instruction on.

13 MR. DRATEL: Yes.

14 THE COURT: All right. Go ahead.

15 Q. (BY MR. JONAS) Agent Burns, who does can it identify as
16 other members of Hamas, or the brotherhood as it says?

17 A. It identifies -- Under the section, the second paragraph,
18 you will see where it begins, it says, "The Brotherhood began
19 developing a strategy for dealing with the situation. These
20 were Sheikh Ahmed Yassin" -- The person on the top the middle.

21 MR. JONAS: For the record, Your Honor, I am holding
22 up Demonstrative No. 17 again.

23 THE WITNESS: Dr. Abdel Aziz Rantisi.

24 Q. (BY MR. JONAS) Is that the individual I am pointing to
25 on Demonstrative No. 17?

1 A. It is.

2 Ibrahim al-Yazuri.

3 Q. I don't see him on the chart.

4 A. He is not on the chart.

5 Salih Shihada.

6 Q. Also not on the chart.

7 A. No. Isa al-Nashar, Muhammad Shama'a, and Abd al-Fattah
8 Dukhan.

9 Q. Getting back to the Islamic Center of Gaza, Agent Burns,
10 did you find anything else that identifies what this
11 organization is within the search marked material you
12 reviewed?

13 A. Yes.

14 Q. Do you have before you what has been marked as InfoCom
15 Search No. 28?

16 A. I do.

17 Q. What is that item?

18 A. This was a manual from InfoCom which discusses the
19 Islamic Center of Gaza, along with a number of other zakat
20 committees.

21 Q. Is there a page number that discusses the Islamic Center
22 of Gaza?

23 A. Yes.

24 MS. HOLLANDER: What was the number of this exhibit?

25 MR. JONAS: InfoCom Search No. 28.

1 Your Honor, at this time I would offer into evidence
2 InfoCom Search No. 28.

3 THE COURT: And that is admitted.

4 Q. (BY MR. JONAS) Agent Burns, if you turn to page 98 of
5 that exhibit.

6 A. I have it.

7 Q. What does it say about the Islamic Center of Gaza?

8 A. It says, "The Islamic complex"--which is the same thing
9 as the Islamic Center; the Arabic name is al-Mujamma'
10 al-Islami and can be translated both ways--"was founded in
11 1973 by a group of Muslims led by Mujahid Sheikh Ahmed
12 Yassin."

13 Q. That is the same individual we pointed out on the chart
14 as being the leader of Hamas?

15 A. That is correct. And some of the names below were some
16 of the names that were identified in the Middle Eastern
17 Affairs Journal that we just looked at.

18 Q. Okay. Agent Burns, did you create some sort of a
19 mini-chart or summary chart for payments to the Islamic Center
20 of Gaza from the HLF?

21 A. Yes.

22 Q. Do you have before you a chart that is marked as Payments
23 To IC/Gaza?

24 A. I do.

25 Q. Is that based upon records already admitted into

1 evidence, as well as other bank records?

2 A. Yes. It is based on, as you said, records that have
3 already been admitted and a few additional bank records.

4 Q. Okay.

5 MR. JONAS: Your Honor, at this time I would offer
6 into evidence the chart marked as Payments To IC/Gaza.

7 MR. DRATEL: One moment, Your Honor.

8 THE COURT: All right.

9 MR. DRATEL: Just as to time frame, Your Honor.

10 THE COURT: Do you want to establish a time frame?

11 MR. DRATEL: The information -- In other words --

12 Q. (BY MR. JONAS) Agent Burns, when is the first
13 transaction between the Holy Land Foundation and the Islamic
14 Center of Gaza?

15 A. 1989.

16 Q. When is the last transaction?

17 A. The last transaction on the chart is July 20th, 1994.

18 Q. Okay.

19 THE COURT: And that is document --

20 MR. JONAS: Payments to IC, which stands for Islamic
21 center /Gaza.

22 THE COURT: That is admitted.

23 Q. (BY MR. JONAS) And Agent Burns, you said this is based
24 upon just not the NAIT records. Is that correct? But other
25 records as well?

1 A. That is correct.

2 MR. JONAS: Your Honor, for the record I am going to
3 offer into evidence the other supporting documentation to this
4 chart, and I will go through them.

5 Q. (BY MR. JONAS) Agent Burns, what is HLF Bank Account No.
6 3?

7 A. That is one of the HLF's bank accounts.

8 Q. Okay.

9 MR. JONAS: Your Honor, at this time I would offer
10 into evidence HLF Bank Account No. 3.

11 MR. DRATEL: Same objection, Your Honor.

12 THE COURT: Do you have several of those you are
13 going to do?

14 MR. JONAS: Yes.

15 THE COURT: Just Ask them all and then offer them
16 all at once.

17 Q. (BY MR. JONAS) HLF Search No. 42, what is that?

18 A. It is A document seized in the HLF search warrant that
19 relates to this chart.

20 Q. Are those documents pertaining specifically to the
21 payments to the Islamic Center of Gaza?

22 A. Yes.

23 Q. InfoCom Search No. 20, what is that?

24 A. That is a document that was seized from the InfoCom
25 search warrant that relate to transactions in this chart.

1 Q. Okay. Payments between the Holy Land Foundation and the
2 Islamic Center of Gaza?

3 A. It says the Islamic Society here, but.

4 Q. HLF Foreign Account No. 1, what is that?

5 A. That was one of the HLF's foreign bank records, bank
6 account that it held in a foreign country.

7 Q. Okay.

8 THE COURT: What was the number?

9 MR. JONAS: HLF Foreign Account No. 1.

10 Q. (BY MR. JONAS) And HLF Search No. 108?

11 THE COURT: You did that one already.

12 MR. JONAS: You are right. I am sorry, Your Honor.

13 Q. (BY MR. JONAS) And finally InfoCom Search No. 28?

14 THE COURT: You have done that one as well.

15 MR. JONAS: Thank you, sir.

16 So I offer into evidence HLF Bank Account No. 3, HLF
17 Search No. 42, InfoCom Search No. 20, HLF Bank Account No. 1,
18 and HLF Foreign Bank Account No. 1.

19 MR. DRATEL: Same objection, Your Honor.

20 THE COURT: Okay. And those are overruled, and
21 those documents are admitted.

22 Q. (BY MR. JONAS) Agent Burns, before we get into the
23 substance of this chart, Islamic Center of Gaza, did you
24 assist in creating a chart that just lists out all the bank
25 accounts that are going to be referred to in this case?

1 A. Yes.

2 Q. Would that chart aid the jury in understanding your
3 testimony?

4 A. It would.

5 Q. Okay.

6 MR. JONAS: Your Honor, at this time --

7 Q. (BY MR. JONAS) I don't know if you have it before you.

8 MR. JONAS: May I have one moment, Your Honor?

9 THE COURT: Go ahead.

10 Q. (BY MR. JONAS) Agent Burns, let me show you what has
11 been marked as I believe it is Bank Accounts. Is this the
12 chart you are referring to?

13 A. Yes.

14 MR. JONAS: Your Honor, I offer into evidence as a
15 1006 summary the chart marked Bank Accounts, and we have a
16 smaller version as well.

17 THE COURT: Counsel?

18 MR. WESTFALL: We are fine with it, Your Honor.

19 MS. HOLLANDER: No objection.

20 THE COURT: That summary chart styled Bank Accounts
21 is admitted.

22 Q. (BY MR. JONAS) Agent Burns, I think we will keep this up
23 there since we are going to be referring to other exhibits as
24 well.

25 MS. HOLLANDER: I can't see the witness, Your Honor,

1 is the problem.

2 THE COURT: And feel free to move, Ms. Hollander,
3 and all counsel, if you need to move.

4 MR. JONAS: Okay. If we could pull up the chart
5 Payments To IC/Gaza, if we have that.

6 Q. (BY MR. JONAS) Agent Burns, let's look at the first
7 transaction, April 26, 1989.

8 MR. JONAS: And if we could pull up NAIT record page
9 176.

10 Q. (BY MR. JONAS) Okay. Who authorized this transaction to
11 the Islamic Center of Gaza?

12 A. If you will look at the bottom, it says "withdrawal
13 requested by brother Shukri Abu Baker." That would be the
14 Defendant.

15 MR. JONAS: Okay. If we can look at NAIT record
16 page 74, which is another one of these transactions.

17 Q. (BY MR. JONAS) Who authorized this transaction to the
18 Islamic Center of Gaza?

19 A. The bottom section under withdrawal requested by brother
20 Mohd. Mezain and brother Shukri.

21 Q. Who is Mohd. Mezain?

22 A. It is like a shortened form for Mohammed, which would be
23 the Defendant Mohammad El-Mezain. And Shukri would be the
24 Defendant Shukri Abu Baker.

25 Q. How much is this transaction for?

1 A. I believe it said \$50,000.

2 Q. Your chart reflects a transaction of \$50,035. Do you
3 know what the \$35 would have been for?

4 A. Likely for wire transfer fees.

5 MR. JONAS: If we can look at NAIT page 103, please.

6 Q. (BY MR. JONAS) This is transaction dated September 21st,
7 1989 for \$100,000, not including the \$35 fee. Who authorized
8 this transaction?

9 A. If you will look at the bottom, it says "withdrawal
10 requested by brother Abu Ibrahim," which that is the nickname
11 for the Defendant Mohammad El-Mezain.

12 MR. JONAS: If we can look HLF Bank Account No. 3,
13 please, page 7.

14 MS. HOLLANDER: Excuse me, counsel. Have these
15 documents been introduced?

16 MR. JONAS: Yes, they have. I just introduced some
17 of these just now.

18 Q. (BY MR. JONAS) Can you make out -- Is this also to the
19 Islamic Center?

20 A. It is. That is the name that I referred to earlier
21 al-Mujama'a al-Islami. That is the written Arabic that
22 translates into the Islamic Center or the Islamic Complex of
23 Gaza.

24 Q. And we saw that in the book HLF Search No. 108?

25 A. That is correct.

1 Q. Do you see who authorized or who signed this check?

2 A. This one is signed by Ghassan Elashi. It is a little bit
3 dark on my screen, but you can see it at the bottom there.

4 Q. You recognize his signature?

5 A. I do.

6 Q. What is the date of this check?

7 A. June 20th, 1990.

8 Q. And how much money?

9 A. \$25,000.

10 MR. JONAS: If we can go back to the chart Payments
11 To IC/Gaza, please, page 2.

12 Q. (BY MR. JONAS) Agent Burns, do you see the transaction
13 on June 28th, 1994?

14 A. I do.

15 Q. Okay. This says "wire, Haitham Maghawri." Who is that?

16 A. He was also an HLF officer.

17 Q. You see this transaction has \$45,000/\$8,000. Can you
18 explain that, please?

19 A. In the later years some of the larger wires were sent
20 from the HLF offices here to bank accounts over there --

21 Q. Let me stop you for a moment. I am sorry. You mentioned
22 earlier that some of the records you reviewed for this chart
23 was HLF Foreign Account No. 1.

24 A. That is correct.

25 Q. Okay. Looking at the chart Bank Accounts, I don't know

1 if you can -- Can you see this chart? Can you see where my
2 finger is? It says HLF Foreign Account No. 1?

3 A. I do.

4 Q. What bank was this account at?

5 A. The Bank of Palestine.

6 Q. Do you know where that account was located?

7 A. In the Palestinian territories.

8 Q. West Bank or Gaza?

9 A. I believe it was in Gaza, but I am not positive.

10 Q. Okay. Please go ahead and finish your explanation of
11 this transaction?

12 A. So a large wire would go from the HLF account here to the
13 HLF's foreign accounts, and from there money would be
14 disbursed to different parties.

15 Q. Okay. How were you able to determine that \$8,000 of this
16 \$45,000 went to the Islamic Center of Gaza?

17 A. By looking at the underlying records, both search warrant
18 and bank records, to see who the ultimate recipient was.

19 Q. And you see under this column for the exhibit it says
20 InfoCom Search No. 20. So if someone went to those words
21 contained within InfoCom Search No. 20, would they be able to
22 ascertain out of that \$45,000 total wire \$8,000 was meant for
23 the Islamic Center of Gaza?

24 A. That is correct.

25 Q. Are we going to see transactions like this throughout the

1 charts that you will testify about?

2 A. Yes. In the mid to late '90s you will see a lot of
3 those.

4 Q. The transaction underneath that dated July 15th, 1994, is
5 a similar set-up, the \$21,000 and it says/ILS \$39,000?

6 A. Yes.

7 Q. What is the ILS?

8 A. It stands for Israel shekels as opposed to U.S. dollars.

9 Q. If we don't see ILS, then what denomination are all these
10 other denominations in?

11 A. U.S. dollars.

12 Q. Do you see the column right next where it says
13 "Destination payment to Ibrahim Al Yazouri, Director of
14 Islamic Council"? Why is that there and in bold?

15 A. That is the ultimate recipient of the money, and he was
16 the individual that we saw referenced along with Sheikh Ahmed
17 Yassin in HLF Search No. 108.

18 Q. How do you know he is the ultimate recipient?

19 A. Based on the records that are referenced in that exhibit
20 column.

21 Q. Would that be InfoCom Search No. 20, or one of the other
22 items?

23 A. That is correct.

24 Q. If you turn to the last page, page 3, do you see there
25 are two lines that say " Hamas designation SDT, 1/23/95, and

1 then Hamas designation FTO, 10/8/1997"?

2 A. I do.

3 Q. What does that mean?

4 A. On the financial schedules, and we have a number of them
5 that we will be discussing, they are done chronologically.

6 And on all the charts we tried to note the dates of the
7 designations of Hamas so that you could see which transactions
8 occurred prior to and subsequent to those designations.

9 Q. In this instance, then, did the Holy Land Foundation send
10 any money to the Islamic Center of Gaza after Hamas was
11 designated?

12 A. I don't know the answer to that. I know that I could not
13 link any money to the Islamic Center of Gaza.

14 Q. Based upon what you reviewed and what is in this chart?

15 A. Right. That is correct.

16 Q. There were no transactions post designation?

17 A. That is correct.

18 Q. Okay. The total amount sent is how much to the Islamic
19 Center of Gaza?

20 A. \$733,245, plus \$56,100 Israeli shekels.

21 Q. You didn't convert that to dollars to include in the
22 \$733,000 number?

23 A. It has not been converted because it was impossible to
24 get a completely accurate conversion rate for the specific
25 date of the transactions, so we just left it in Israeli

1 shekels.

2 Q. Agent Burns, if you recall, on I believe it is the 1988
3 or 1989 OLF Disbursement charts there were payments to an
4 individual or organization known as K&A Trading. Do you
5 recall that?

6 A. I do.

7 Q. Did you create a chart just reflecting on those
8 particular payments?

9 A. Yes.

10 Q. Do you have that chart before you?

11 A. That is one that I do not have.

12 MR. JONAS: Your Honor, if I may approach?

13 THE COURT: Yes.

14 THE WITNESS: Thank you.

15 Q. (BY MR. JONAS) Do you have that chart now?

16 A. I do.

17 Q. Okay. Is that chart based upon items already in
18 evidence?

19 A. It is.

20 Q. Would that chart aid the jury in understanding your
21 testimony?

22 A. It will.

23 MR. JONAS: Your Honor, at this time I would offer
24 into evidence the exhibit marked as Payments to K&A Trading.

25 THE COURT: And those are admitted. The reason I

1 say it is -- On your chart, you show two, K&A/Marzook and K&A
2 Trading.

3 MR. JONAS: Correct. The K&A/Marzook we are going
4 to get to in a moment. It is a separate chart.

5 THE COURT: So this is the other one?

6 MR. JONAS: Correct.

7 THE COURT: Okay. Trading, that is admitted.

8 MR. JONAS: If we can put that on the screen,
9 please.

10 Q. (BY MR. JONAS) Agent Burns, when is the first wire
11 transfer to K&A Overseas Trading?

12 A. September 1st, 1988.

13 Q. When is the last wire transfer?

14 A. October 27th, 1988.

15 Q. Basically a little under a two-month period?

16 A. That is correct.

17 Q. And in this two-month period, how much money did the HLF
18 send to K&A Trading?

19 A. \$250,175.

20 Q. Is it safe to assume that the \$175 were wire transfer
21 fees?

22 A. Yes.

23 Q. \$35 per wire?

24 A. That is correct.

25 Q. Do you see where it says --

1 MR. JONAS: Let's just pull up NAIT page 150 that
2 reflects a transaction of September 15th, 1988.

3 Q. (BY MR. JONAS) Who authorized this transaction,
4 according to this document on the screen?

5 A. The Defendant Shukri Abu Baker.

6 MR. JONAS: If we can scroll up a little bit,
7 please?

8 Q. (BY MR. JONAS) Where was the HLF sending the money to
9 for these transactions to K&A Trading?

10 A. The Banque De Paris in Switzerland.

11 Q. I assume that is a bank.

12 A. I am assuming. I don't speak French.

13 Q. Neither do I. Did you, during the course of the
14 investigation make a request, or did someone from the
15 Department of Justice make a request to Switzerland to obtain
16 those bank records?

17 A. Yes.

18 Q. Do you have before you what is marked as K&A Trading
19 Account?

20 A. I do.

21 Q. And are those -- Is that the account where this money
22 from the HLF was sent to?

23 A. It is.

24 MR. JONAS: Your Honor, at this time I would offer
25 into evidence K&A Trading Account.

1 THE COURT: Admitted.

2 Q. (BY MR. JONAS) Agent Burns, the fact it is called K&A
3 Trading Account, does that mean it is not a trading account;
4 it is a bank account? Just so we are clear for the record?

5 A. Are you talking about our exhibit name?

6 Q. Yes.

7 A. Yes, that is correct.

8 Q. There is only so much space you can fit --

9 A. On the little exhibit stickers. That is right.

10 Q. Okay. Agent Burns, how do you know that this is the same
11 account that the money was sent to, that the HLF money was
12 sent to?

13 A. Because the account number in these records is the same
14 as the account number referenced in the NAIT records from the
15 HLF.

16 Q. Okay. So if we can center on the middle, on the middle
17 of this page, do you see where it says 110441?

18 A. I do.

19 Q. I am not going to make us jump back and forth between the
20 documents, but is that number referenced on the wire transfer
21 authorization we saw a moment ago from the NAIT records?

22 A. Yes.

23 Q. Okay. And that is how you match up the wire transfers to
24 this particular account?

25 A. That is correct.

1 Q. Okay. Is there anywhere in this document that indicates
2 who owns or operates K&A Overseas Trading?

3 A. Yes.

4 Q. Okay.

5 MR. JONAS: If we look to page 6 of this document,
6 please.

7 Q. (BY MR. JONAS) Do you have any idea what language that
8 is in?

9 A. It is not English.

10 Q. Okay. On the right hand side in the middle we see a
11 name.

12 A. If we go to the next page, it is actually in English.

13 Q. Okay. Is that a translation, the next page?

14 A. Yes, it is.

15 MR. JONAS: Go to page 7, please.

16 Q. (BY MR. JONAS) Okay. What name do you see over there
17 for this account holder?

18 A. Mr. Khairy H. Al-Agha, Jeddah, Saudi Arabia.

19 Q. Would it make sense that the K of K&A Trading, Khairy, A
20 for Al-Agha, K-A?

21 A. I presume.

22 Q. Did you come across anything in the evidence you
23 reviewed, including the documents we discussed, that identify
24 who Khairy Al-Agha is?

25 A. Yes.

1 MR. JONAS: If you will turn to Ashqar Search No. 1
2 is. It is a document already in evidence.

3 Q. (BY MR. JONAS) Do you have that before you?

4 A. I do.

5 Q. Thursday when we talked about Ashqar Search No. 1, what
6 did we focus on, what particular page?

7 A. We focused on page 4.

8 Q. Which was?

9 A. The important phone and fax numbers for the Palestine
10 Section in America.

11 Q. And we looked at some of those names that matched up with
12 the Palestine Committee names in the Elbarasse documents?

13 A. That is correct. We compared this to those lists.

14 MR. JONAS: Let's go to page 5?

15 Q. (BY MR. JONAS) And what is the title of page 5?

16 A. Again, this is a translation. It says, "Important phone
17 and fax numbers. Palestine Section outside America."

18 Q. Do you see Khairy Al-Agha's name there?

19 A. He is the first person listed.

20 Q. Do you see where it says Saudi Arabia? Did we see Saudi
21 Arabia anywhere on the bank records of his that we looked at?

22 A. In the bank records on page 7 it was noted that he was in
23 Jeddah, Saudi Arabia.

24 Q. Did you see his name anywhere else in any of the
25 documents we discussed?

1 A. Yes.

2 Q. Do you have Marzook's Phonebook before you?

3 A. I do.

4 MR. JONAS: If we can pull up Marzook Phonebook,
5 page 54, please.

6 Q. (BY MR. JONAS) Do you see -- Where do you see Khairy
7 Al-Agha's name on the page?

8 A. The third name on the list says Dr. Khairy.

9 Q. How do you know that is Khairy Al-Agha?

10 A. Because if you look at the telephone numbers referenced
11 to the side of his name, first 966 is the country code for
12 Saudi Arabia.

13 Q. Okay.

14 A. But both of those numbers are the same phone numbers
15 referenced in Ashqar Search No. 1.

16 Q. Okay. While we are talking about Khairy Al-Agha and
17 Marzook, did you come across anything indicating that those
18 two individuals had a relationship?

19 A. Yes.

20 Q. And what did you look at?

21 A. There were bank records taken from Ismail Elbarasse's
22 home indicating a financial relationship between Marzook and
23 Khairy Al-Agha.

24 Q. Did you create a chart reflecting that financial
25 relationship?

1 A. Yes.

2 Q. Is the chart in the same format as these other charts we
3 talked about?

4 A. It is.

5 Q. Do you have before you an exhibit marked
6 K.Agha/K&A/Marzook?

7 A. Yes.

8 Q. Is that the schedule you created to reflect transactions
9 between Marzook and Khairy Al-Agha?

10 A. Yes.

11 MR. JONAS: Your Honor, at this time I would offer
12 into evidence the schedule marked K.Agha/K&A/Marzook.

13 THE COURT: That is admitted.

14 Q. (BY MR. JONAS) Agent Burns, before I get into this one,
15 can you remind us again the time period that the HLF was
16 sending money to Khairy Al-Agha?

17 A. It was from mid to late 1988. I believe the last
18 transaction was in late October. October 27th, 1988 was the
19 last transaction.

20 Q. When is the first transaction of this chart for payments
21 to Khairy Al-Agha and Marzook?

22 A. From Khairy Al-Agha to Marzook the first transaction is
23 the second on the chart, which is February 8, 1989, about
24 three and a half months after the HLF sent its last
25 transaction to K&A Trading.

1 Q. Was there a transaction prior to that between these two
2 individuals?

3 A. Yes. Mousa Abu Marzook actually sent \$15,000 to Khairy
4 Al-Agha in 1988, and the remainder of the transactions on this
5 chart were going the other direction--K&A was sending the
6 money back to Marzook.

7 Q. Okay. You mentioned that some of these documents you
8 looked at to support this chart came from the Elbarasse search
9 warrant?

10 A. Yes.

11 Q. Did you look at bank accounts as well?

12 A. I did.

13 Q. It says Elbarasse Search No. 36. Is that some of the
14 documents you are referring to?

15 A. Yes.

16 Q. And Elbarasse Search No. 39?

17 A. That is correct.

18 Q. Then it says Marzook Bank Account No. 4. What is that?

19 A. That is one of the bank accounts held by Mousa Abu
20 Marzook.

21 MR. JONAS: Your Honor, at this time I would offer
22 into evidence Elbarasse Search No. 36, Elbarasse Search No.
23 39, and Marzook Bank Account No. 4.

24 THE COURT: Those are admitted.

25 Q. (BY MR. JONAS) Agent Burns, how much money was moved

1 from Khairy Al-Agha to Mousa Abu Marzook?

2 A. I think it was approximately \$1.3 million. There is not
3 a total on here, but if you add them up, it is well over a
4 million.

5 Q. Just so we are clear are, on the chart the first
6 transaction is shaded. Why is it shaded?

7 A. On the very first transaction?

8 Q. Yes.

9 A. To indicate the money was going in the other direction.

10 Q. You mean the other direction from Marzook to Khairy
11 Al-Agha?

12 A. That is correct.

13 Q. Then you have money not shaded, and that reflects?

14 A. Money going from K&A Overseas Trading to Marzook.

15 Q. Agent Burns, in reviewing all the search warrant material
16 and everything you have seen in the course of this case, did
17 you come across any explanation as to why Holy Land Foundation
18 was sending \$250,000 to Khairy Al-Agha?

19 A. I have seen information indicating that they said they
20 only sent to charitable organizations, and I researched this
21 and Khairy Al-Agha -- K&A Trading is not a charitable
22 organization. So no, I did not find an explanation as to why
23 they were sending so much money to K&A Overseas Trading.

24 Q. Okay. Staying with Marzook, let's talk about him for a
25 minute, did you see anything indicating that Marzook himself

1 sent money to the three organizations that comprise the
2 Palestine Committee, the UASR, IAP, and HLF?

3 A. Yes, I did.

4 Q. Did you create a chart that would summarize those
5 transactions?

6 A. I did.

7 Q. Do you have those charts before you?

8 A. I believe I need you to hand me those.

9 MR. JONAS: Your Honor, may I have a moment, please?

10 THE COURT: Yes.

11 Q. (BY MR. JONAS) Do you have a chart reflecting payments
12 Marzook and UASR?

13 A. I do.

14 Q. And what are those payments based upon and that chart
15 based upon?

16 A. Marzook bank records, Elbarasse search warrant material.

17 Q. Okay. And what is the time frame of the transactions
18 between Marzook and UASR?

19 A. March 2nd, 1992 through November 30th, 1992.

20 MR. JONAS: Your Honor, at this time I would offer
21 into evidence Government's exhibit I believe it is labeled
22 Marzook/UASR on the exhibit sticker.

23 Q. (BY MR. JONAS) Is that correct, Agent Burns?

24 A. Yes.

25 MR. DRATEL: As to time frame, Your Honor.

1 MR. JONAS: I believe she covered the time frame.

2 MR. DRATEL: No, no. I am saying it goes to the
3 time frame, that is the objection.

4 MR. JONAS: I thought that was a question, asking
5 the time frame.

6 THE COURT: That is overruled, and that exhibit is
7 -- That chart is admitted.

8 MR. JONAS: If we can put page of that chart on the
9 screen.

10 Q. (BY MR. JONAS) Agent Burns, this is based upon, again,
11 Elbarasse search records?

12 A. In part, yes.

13 Q. As well as bank records?

14 A. That is correct.

15 MR. JONAS: Your Honor, I apologize. I am not
16 keeping track of documents as I am admitting them, so I may
17 offer documents that are already in evidence just to play it
18 safe.

19 THE COURT: Sure.

20 MR. JONAS: At this time I would offer into evidence
21 Marzook Bank Account No. 3, Elbarasse Search No. 38, Marzook
22 Bank Account No. 1.

23 THE COURT: So Marzook Bank Accounts No. 1 and 3 --

24 MR. JONAS: Correct, yes, sir.

25 THE COURT: And then Elbarasse Search No. 38.

1 MR. JONAS: Correct, yes, sir.

2 THE COURT: And those are admitted.

3 MR. JONAS: Thank you.

4 Q. (BY MR. JONAS) Agent Burns, how many pages is this
5 document?

6 A. Two.

7 Q. Two? What is the total amount of money Marzook sent to
8 the UASR?

9 A. \$286,272.49.

10 MR. JONAS: Can we pull up page 54 -- I am sorry.
11 Page 52 of the Marzook Bank Account No. 3, and see one of the
12 items that support this chart.

13 Q. (BY MR. JONAS) Is that -- That is from the -- That is a
14 statement. Right?

15 A. That is correct.

16 Q. And that is the statement, if you can look at the chart
17 does it reflect any of the payments between Marzook and UASR?

18 A. Yes, it does. The June 30th payment, if you will look at
19 the second line from the bottom, it says June 30th with a
20 check number and then the amount \$34,169.42.

21 Q. Okay. Did Marzook make payments to the IAP?

22 A. He did.

23 Q. I am sorry. Before you leave the UASR, what was the
24 total time period he was making payments to the UASR?

25 A. March through November of 1992.

1 Q. 1992?

2 A. That is correct.

3 Q. What items did you review to support that he made
4 payments to the IAP?

5 A. Elbarasse search warrant materials as well as Marzook
6 bank records.

7 Q. Did you create a summary schedule of these payments,
8 these transactions between Marzook and the IAP?

9 A. Yes.

10 Q. Do you have that before you?

11 A. I do.

12 Q. Okay. And is that labeled Marzook/IAP, the exhibit
13 sticker?

14 A. Yes, it is.

15 MR. JONAS: Your Honor, at this time I would offer
16 into evidence Government's Exhibit Marzook/IAP.

17 THE COURT: Okay. That is admitted. .

18 Q. (BY MR. JONAS) And for the record, what is the title of
19 the schedule on the top? Is it a little more expansive than
20 on the exhibit sticker itself?

21 A. It is.

22 Q. What does it say at the top?

23 A. "Payments from Marzook to the Islamic Association for
24 Palestine."

25 MR. JONAS: If we can put the first page of that

1 exhibit on the screen, please.

2 Q. (BY MR. JONAS) And by the way, Agent Burns, with the
3 last exhibit UASR and this current exhibit, were there any
4 payments going from the UASR or IAP to Marzook, or was it
5 purely a one way street from him to them?

6 A. I don't think that there were payments, but I can't say
7 for sure that there weren't, based on these records.

8 Q. Based upon the records. That is what I am asking.

9 A. That is correct.

10 Q. Because in the Khairy Al-Agha transaction you said there
11 was one transaction that went in the opposite direction.

12 A. That is correct.

13 Q. From what you have seen, it is from Marzook to all these
14 entities?

15 A. Yes.

16 Q. Agent Burns --

17 MR. JONAS: Your Honor, at this time I would offer
18 into evidence Marzook Bank Account No. 2.

19 THE COURT: That is admitted.

20 Q. (BY MR. JONAS) Agent Burns, could you -- You see where
21 it says authorization?

22 A. I do.

23 Q. There is a few times where it says Elbarasse's name. Why
24 is that?

25 A. Because he was the individual identified as having

1 authorized the specific payment out of the Marzook bank
2 account.

3 Q. And what is the time period of these transactions;
4 starting when and ending when?

5 A. The transactions begin February 11th, 1985 and they end
6 August 1st, 1992.

7 Q. Okay. In the Elbarasse records that we looked at the
8 other day, does it indicate how long in existence the IAP --
9 how long IAP existed for?

10 A. Yes. I believe it was the first document we actually
11 looked at from Ismail Elbarasse's home indicated that the IAP
12 was originally created by the Muslim Brotherhood in the early
13 '80s.

14 Q. So it predates the Palestine Committee?

15 A. Yes.

16 Q. And the HLF and UASR, do they predate the Palestine
17 Committee, from the records we have seen and discussed?

18 A. They were all -- Well, the HLF was created about the same
19 time. 1988 was when the Palestine Committee was formed, and
20 the same thing with the HLF. And the UASR, I am not sure of
21 the actual date, but it was around the same time.

22 Q. Okay. So the fact that Marzook is making payments to the
23 IAP as early as 1985, I believe you said was the first
24 transaction, is that consistent with the material we have
25 discussed?

1 A. Yes.

2 Q. And the fact he is making payments to UASR in 1992, is
3 that also consistent --

4 A. Yes.

5 Q. In terms of the creation of the organizations.

6 How much money did Marzook pay in total to the IAP? If
7 you look at the bottom of page 5.

8 A. \$757,864.

9 Q. Do you see in the last transaction, last two
10 transactions, it says Richardson, Texas?

11 A. Yes.

12 Q. Did the IAP have a presence in Richardson?

13 A. Yes.

14 Q. And are you basing that on the bank records that are in
15 evidence?

16 A. And also I saw the office there.

17 Q. For purposes of this chart?

18 A. Yes.

19 Q. Okay. Did Marzook make payments to any of the
20 Defendants, including the HLF or these Defendants
21 individually?

22 A. He did.

23 Q. Did you create a summary chart reflecting those payments
24 as well?

25 A. Yes.

1 Q. And what is the name of the summary chart for the
2 purposes of the sticker, the exhibit sticker?

3 A. The exhibit sticker says Marzook/Defendants.

4 Q. Okay. The title is different. The title says "Payments
5 Between Marzook and the Defendants"?

6 A. That is correct.

7 Q. And what did you base this schedule on?

8 A. The NAIT bank records some of the Marzook bank accounts,
9 Elbarasse search warrant material.

10 Q. Okay.

11 MR. JONAS: Your Honor, at this time I would offer
12 into evidence Government's exhibit Marzook/Defendants.

13 MR. DRATEL: The only objection is as to time frame,
14 Your Honor.

15 THE COURT: Okay. That is overruled, and that chart
16 is admitted.

17 MR. JONAS: If we can put the first page on the
18 screen, please.

19 Your Honor, at this time I offer -- I don't believe I
20 have offered Elbarasse Search No. 37 into evidence yet. If I
21 have, I apologize. If I have not, I am offering it now.

22 THE COURT: No. 37 is admitted. That was one of the
23 ones we discussed from this morning. That is admitted.

24 Q. (BY MR. JONAS) Agent Burns, when is the first payment
25 from the Holy Land Foundation to Mousa Abu Marzook?

1 A. The HLF paid Marzook \$10,000 on April 26th, 1988.

2 Q. Do you see on the far right on the exhibits there is
3 several page numbers for the NAIT records?

4 A. Yes.

5 Q. One of them has the I and one of them has the S. Can you
6 explain why there is multiple page numbers for this exhibit
7 for this transaction?

8 A. Because there were several items that went into creating
9 this transaction from the bank records, if you want to take a
10 look at them.

11 Q. I didn't mean to interrupt.

12 But they all support that there is one transaction?

13 A. That is correct.

14 Q. Okay. The first part it says destination to Marzook and
15 then Nadia Elashi. Again, who is she?

16 A. The wife of Mousa Abu Marzook.

17 Q. She is getting two \$10,000 payments; one on June 24th,
18 1988, and then there is one on January 23rd, 1989. The
19 spelling of the name is different. Why is that--Elashi?

20 A. As often with some of these Arabic names, as they are
21 translated into English they are phonetically translated, so
22 they can be spelled in many different ways. A-L-A-S-H-I is
23 pronounced the same way as E-L-A-S-H-I.

24 Q. Is it spelled differently on this particular chart
25 because that is how it is spelled in the records?

1 A. That is correct.

2 Q. If you look at the second transaction to Nadia Elashi,
3 again January 23rd, 1989, it says BR Shukri. What does that
4 mean?

5 A. Brother Shukri, referring to the Defendant Shukri Abu
6 Baker.

7 Q. How do you know? Were there any other Shukris that you
8 came across in connection to the HLF?

9 A. At this time Shukri Abu Baker was the only Shukri that
10 was affiliated with the HLF.

11 Q. If you go down further on the right hand side where it
12 says destination, you have source now April 1985 Mousa Abu
13 Marzook, and then destination Shukri Baker. Can you explain
14 why we have had a shift in this chart from destination and
15 payment?

16 A. Okay. The chart was created for all payments between
17 Marzook and the Defendants, so it is organized by who the
18 source and destination were. So the original transactions
19 show Occupied Land Fund transactions with Mousa Abu Marzook.
20 The next section are transactions between Mousa Abu Marzook
21 and the individual Defendant Shukri Abu Baker chronologically.
22 So the first transaction with Shukri Abu Baker was April 17th,
23 1985.

24 Q. Going back to the top transaction, April 25th, 1988, how
25 soon after was this transaction occurred after HLF was

1 created?

2 A. Very shortly. We first saw the HLF in operation in very
3 early '88.

4 Q. And in going through all the search warrant material, did
5 you come across any explanation as to why Holy Land Foundation
6 is sending a total of \$30,000 to Mousa Abu Marzook?

7 A. No.

8 MR. JONAS: Can we turn to the next page?

9 Q. (BY MR. JONAS) Was Marzook sending money to other
10 Defendants besides the Holy Land Foundation and Shukri Baker,
11 as we saw on the first page?

12 A. Yes.

13 Q. Who else was he sending money to?

14 A. To the Defendant Ghassan Elashi.

15 Q. What is the time period for those payments?

16 A. Both of those were in 1988.

17 Q. And any other Defendant?

18 A. The Defendant Mohammad El-Mezain.

19 MR. JONAS: Turn to the next page, please.

20 MR. DRATEL: What was the time frame on that?

21 Q. (BY MR. JONAS) What was the payment to Mohammad
22 El-Mezain, the first and the last?

23 A. From July of 1988 through December 26, 1990.

24 MR. JONAS: Your Honor, the payments to El-Mezain
25 are also reflected in Elbarasse Search No. 40. I don't

1 believe I have offered that one yet, so I do at this time.

2 THE COURT: That is admitted.

3 Let's go ahead and take the morning break at this time.

4 Let's be in recess until 11:00.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: Be in recess until 11:00.

7 (Brief Recess.)

8 THE COURT: Mr. Jonas?

9 Q. (BY MR. JONAS) Agent Burns, before the break we were
10 talking about payments from Marzook and the Defendants, as
11 well as the organizations that comprise the Palestine
12 Committee. On those three charts, are total amounts listed?

13 A. On some of them they are; not on the chart between
14 Marzook and the Defendants.

15 Q. Is that multiple individuals that are receiving money?

16 A. That is correct.

17 Q. Did you have an opportunity to total up the amount that
18 Marzook paid to the Palestine Committee through the
19 organizations or the Defendants themselves?

20 A. We did a rough estimate.

21 Q. Roughly how much did he pay?

22 A. Over \$1.2 million.

23 Q. You testified that the money to UASR, a lot of it was in
24 1992. Is that correct?

25 A. That is correct.

1 Q. And how about between him and the HLF?

2 A. Between Marzook and the HLF?

3 Q. I shouldn't say him. Between Marzook and the HLF, what
4 time period was he sending money to the HLF?

5 A. 1992.

6 Q. Did you review anything that indicates how much money
7 Marzook himself received in 1992 in order to make these
8 payments?

9 A. Yes.

10 Q. All right. Before we do that, can you just tell us again
11 how much did he pay to the UASR in 1992?

12 A. To the UASR the total in 1992 was \$286,272.49.

13 Q. And how much did he pay to the Holy Land Foundation in
14 1992?

15 A. 1992, \$210,000.

16 Q. So we are talking approximately half a million dollars
17 that Marzook paid out to the UASR and HLF alone in 1992. Is
18 that correct?

19 A. That is correct.

20 Q. Okay. Did you review any documents that indicates how
21 much money he himself made in 1992 which would go to support
22 these payments?

23 A. Yes.

24 Q. Do you have before you what is marked as Marzook Tax
25 Return No. 1 or Marzook Tax No. 1?

1 A. I do.

2 Q. What is that item?

3 A. These are the tax returns for Mousa Abu Marzook that were
4 signed on --

5 Q. What year is the return for?

6 A. It says 1992 at the top.

7 Q. Okay. You said tax returns. Is there just one return?

8 A. One return with supporting documentation.

9 Q. Is that tax return certified?

10 A. Yes.

11 MR. JONAS: Your Honor, at this time I would offer
12 into evidence Marzook Tax No. 1.

13 THE COURT: Admitted.

14 MR. JONAS: If we can put the first page on the
15 screen, please. Or the second page. Sorry. If we can scroll
16 down now to the middle.

17 Q. (BY MR. JONAS) I am sorry. Just to confirm at the top
18 it says Mousa Abu Marzook and Nadia Elashi?

19 A. It does.

20 Q. You said Nadia Elashi is his wife. Is that correct?

21 A. That is correct.

22 Q. Does this say how much in wages Marzook earned in 1992?

23 A. It says under taxable interest income \$6,809, and then
24 under --

25 Q. I am sorry, Agent Burns. I don't mean to interrupt you,

1 but how much did he make in salary? How much does this
2 document indicate he made in salary in 1992?

3 A. His adjusted gross income was \$51,585.

4 Q. I don't think you understand my question. Line 7 says
5 wages. Correct?

6 A. Right.

7 Q. Wages is salary?

8 A. I am sorry. Yes.

9 Q. How much did he earn in salary in 1992?

10 A. Zero.

11 Q. Okay. How much income did he earn from other sources in
12 1992?

13 A. The interest income was \$6,809.

14 Q. And then how much other income did he earn?

15 A. Business income was noted as \$48,557.

16 Q. Without analyzing this whole return, is there anywhere on
17 the return that indicates what the business income was?

18 A. Yes.

19 Q. And what was it?

20 A. Mecca Investments, an investment he had in a real estate
21 company.

22 Q. Is there anywhere in the return to indicate Marzook was
23 wealthy?

24 A. No.

25 Q. In the course of your investigation did you come across

1 any evidence that Marzook was wealthy?

2 A. I came across bank records to indicate he dealt with a
3 lot of money, but I did not see a legitimate source for that
4 money.

5 Q. Okay. Do you know what Marzook was doing in 1992 in the
6 United States?

7 A. I believe he was still a student in Louisiana at that
8 time.

9 Q. So did you come across, in examining this tax return, any
10 justification or source for \$500,000 that Marzook paid out to
11 these two entities, UASR and HLF, just those two alone?

12 A. No.

13 Q. Did Marzook take a tax deduction for his payments he made
14 to the HLF?

15 A. He took a tax donation for a payment that he made to the
16 HLF, but not for the entire thing.

17 Q. You said he made a total of \$210,000 in payments to the
18 HLF in 1992. How many payments did that comprise?

19 A. Three.

20 Q. What was the breakdown?

21 A. \$10,000, and then \$100,000, and then about ten days later
22 another \$100,000.

23 Q. If we could turn to page 11 of his tax return, do you see
24 where it says Schedule A?

25 A. I do.

1 Q. Contributions by cash, check. I am assuming that is what
2 it means?

3 A. Yes.

4 Q. How much does it say that he contributed to the Holy Land
5 Foundation in 1992?

6 A. \$25,000.

7 Q. Did the Holy Land Foundation give him a receipt for this
8 money?

9 A. They did.

10 MR. JONAS: If you can turn to page 11, please.

11 THE WITNESS: I believe it is page 13.

12 Q. (BY MR. JONAS) I am sorry. We were on page 11. And do
13 you see a receipt there from the Holy Land Foundation?

14 A. Yes.

15 Q. How much is it for?

16 A. \$25,000.

17 Q. Based upon your review of the bank records and the
18 Elbarasse material in creating that schedule of payments by
19 Marzook to the Defendants, did you actually see checks or wire
20 transfers totaling the \$210,000 he made in 1992?

21 A. Yes.

22 Q. Is this \$25,000 receipt accurate?

23 A. No.

24 Q. Based upon what you looked at?

25 A. That is correct.

1 Q. Okay. Did any of the Defendants talk publicly about
2 their relationship with Marzook?

3 A. They did.

4 Q. Was any of this public discussion in a phone call
5 intercepted by the FBI?

6 A. Yes.

7 Q. Do you have before you what has been marked as Baker
8 Wiretap No. 2?

9 A. Bear with me while I find my other binder.

10 Q. Sure.

11 A. I have it.

12 Q. I am sorry. Before we do that, I skipped one question.
13 Did you come across any evidence indicating that Marzook acted
14 as an intermediary in getting money to the HLF?

15 A. Yes.

16 Q. Do you have before you what has been marked as InfoCom
17 Search No. 83?

18 A. I do.

19 Q. Okay. Without getting into the details, what is this
20 document?

21 A. It is a piece of correspondence that relates to a
22 transaction involving Mousa Abu Marzook and the HLF.

23 Q. Who signed this letter?

24 A. The Defendant Shukri Abu Baker.

25 Q. Is it on any letterhead?

1 A. The Occupied Land Fund.

2 MR. JONAS: Your Honor, at this time I would offer
3 into evidence InfoCom Search No. 83.

4 THE COURT: Admitted.

5 Q. (BY MR. JONAS) What language is this letter in?

6 A. It was in Arabic.

7 MR. JONAS: If we can put page 2 on the screen,
8 please.

9 Q. (BY MR. JONAS) What is the date of the letter?

10 A. February 17th, 1991.

11 Q. Okay. Just read where it starts, "His eminence," and the
12 next line?

13 A. It is addressed to "His imminence, the honorable Sheik
14 Omar Ahmad Badahdah. May good keep him. In reply to your
15 notification which we received on February 3rd, I would like
16 to inform you that we have received from your end the sum of
17 \$66,000 through brother Mousa Abu Marzook. We thank you, and
18 may God bless you. Hoping for your continued support to the
19 Fund, and apologizing for the delay in sending this note."

20 Q. That is fine. Okay. Getting back to where I was a
21 moment ago, do you have Baker Wiretap No. 2 before you?

22 A. I do.

23 Q. Okay. And is that a phone call involving any of the
24 Defendants?

25 A. Yes.

1 Q. Who?

2 A. The Defendant Shukri Abu Baker.

3 Q. What is the date of the call?

4 A. April 1st, 1996.

5 Q. 1996?

6 A. That is correct.

7 Q. And is there a discussion between Shukri Baker and
8 another party regarding his or HLF's relationship with
9 Marzook?

10 A. Yes. This is a call in English between Shukri Abu Baker
11 and a reporter, an American reporter named Gayle.

12 MR. JONAS: Your Honor, at this time I would offer
13 into evidence Baker Wiretap No. 2 and No. 2-A, the
14 accompanying audio.

15 THE COURT: Ms. Hollander?

16 MS. HOLLANDER: I am not sure. Is 2-A is first
17 clip? Do they go in order?

18 MR. JONAS: Your Honor, excuse me.

19 THE COURT: Sure.

20 Any objections, Ms. Hollander?

21 MS. HOLLANDER: I am not sure which clip this is,
22 because I have them all as one, and I may have some 106, but I
23 will know as soon as I see it.

24 THE COURT: All right. Baker Wiretap No. 2 and 2-A
25 are admitted.

1 Q. (BY MR. JONAS) Agent Burns, for purposes of this trial
2 is the whole call being admitted, the entire call?

3 A. No, it is not.

4 Q. And what did you do with the call?

5 A. A lot of these calls were fairly lengthy, so what we did
6 was redact and include only the portions that were relevant to
7 what we were wanting to show here today.

8 Q. That is similar to what you did with the videotapes?

9 A. That is correct.

10 Q. Did the FBI change the content of the call in any way?

11 A. No.

12 Q. For purposes of this call, then, I think -- Is this call
13 broken down into segments?

14 A. It is.

15 Q. I think for right now we only want to play the fourth
16 segment.

17 (Whereupon, Baker Wiretap 2, clip 4 was played in open
18 court, while questions were propounded.)

19 Q. (BY MR. JONAS) I am sorry. This is a woman named Gayle,
20 you said, is a reporter.

21 A. That is correct.

22 Q. She referred to Mr. Marzook's attorney. At the time of
23 this phone call, do you know what was going on with Marzook?

24 A. Yes. Marzook had been arrested at JFK Airport in 1995
25 and was currently, at the time of this call, detained and

1 fighting his extradition proceedings.

2 Q. Okay. Marzook's phonebook is in evidence. Correct?

3 A. That is correct.

4 Q. Did you go through it?

5 A. Yes.

6 Q. Is the Defendant Shukri Baker's name in Marzook's
7 phonebook?

8 A. It is.

9 Q. Any other Defendants' names in the phonebook?

10 A. Yes.

11 Q. Okay. Whose?

12 A. We went through it the other day and identified the
13 number for Mohammad El-Mezain as well as Ghassan Elashi.

14 Q. Okay. Shukri Baker is telling this reporter that maybe
15 his phone number is in Marzook's phonebook in relation to the
16 \$210,000 three donations that Marzook gave to the HLF.
17 Correct?

18 A. Actually he said --

19 MS. HOLLANDER: Your Honor, I object to the leading
20 and repeating testimony.

21 THE COURT: Okay. Do you want to rephrase?

22 MR. JONAS: Sure.

23 Q. (BY MR. JONAS) What was Shukri Baker referring to when
24 he talked to Gayle, the reporter, regarding his name in
25 Marzook's phonebook?

1 A. He was -- Well, she had asked him why his number would be
2 in Marzook's phonebook, and he said that he guessed that he
3 probably picked it up around the time of the convention.

4 MR. DRATEL: Objection, Your Honor. She is just
5 repeating the transcript.

6 MR. JONAS: It is a foundational matter.

7 THE COURT: Yes. Go ahead.

8 Q. (BY MR. JONAS) We looked at the chart before, the
9 payments between Marzook and the Defendants. Focus on the
10 bottom half, please. Do you see there is a payment from
11 Marzook to the Defendant Shukri Baker?

12 A. I do.

13 Q. In 1985?

14 A. I do.

15 Q. And there is another one in 1985?

16 A. Yes.

17 Q. Okay. How much earlier before Marzook gave \$210,000 to
18 the HLF were these payments to the Defendant Shukri Baker?

19 A. Almost seven years.

20 Q. And there are some more payments on the next page?

21 A. Yes.

22 Q. So seven years prior to Marzook making this donation, he
23 is giving money to Baker. Is that correct?

24 A. That is correct.

25 Q. Okay. Did Shukri Baker talk to any other Defendant

1 regarding the phone conversation we just played, the one with
2 Gayle, the reporter?

3 A. Yes.

4 Q. Who?

5 A. The Defendant Mohammad El-Mezain.

6 Q. Okay. Do you have -- Was that phone conversation
7 intercepted by the FBI?

8 A. It was.

9 Q. Do you have before you what is marked as El-Mezain
10 Wiretap No. 11?

11 A. Yes.

12 Q. And who is the participants on that call?

13 A. This is a call between the Defendants Mohammad El-Mezain,
14 Shukri Abu Baker, and Haitham Maghawri.

15 Q. What is the date of the call?

16 A. April 3rd, 1996.

17 MR. JONAS: Your Honor, at this time I would offer
18 into evidence El-Mezain Wiretap No. 11.

19 MR. DRATEL: Your Honor, beyond the previous
20 objections, but also we have a 106 --

21 MR. JONAS: For this one?

22 MR. DRATEL: Yes.

23 MS. HOLLANDER: We do, too. I don't know if it is
24 the same 106.

25 THE COURT: Are you offering 11-A as well?

1 MR. JONAS: Yes, sir.

2 THE COURT: No. 11 and 11-A. Those are admitted,
3 and we will deal with the 106.

4 MS. HOLLANDER: I am sorry to interrupt. I was just
5 going to see if we had the same 106.

6 THE COURT: All right. Go ahead. Have you looked
7 at their 106?

8 MR. JONAS: I have not, sir.

9 Your Honor, this is the first I am looking at this. I
10 just need a moment to see if we can agree.

11 THE COURT: Sure. Go ahead.

12 MR. JONAS: Your Honor, we are going to object to
13 their 106 requests.

14 THE COURT: Okay. Let me take a look at that.

15 (The following was had outside the presence and
16 hearing of the jury.)

17 MS. HOLLANDER: This is where theirs ends, and it
18 ends by saying "We don't give to individuals," and then they
19 explain who they do give to. He is talking about who they
20 give to and who they support. And then if you leave it there,
21 it is just not complete, and in fairness the jury ought to
22 hear the rest of it.

23 THE COURT: Okay. Go ahead.

24 MR. JONAS: I am not sure that is where we end. I
25 don't see that on mine.

1 MS. HOLLANDER: That is where that part of it ends.
2 It may not where the whole thing ends. I am sorry.

3 MR. JONAS: There is two segments to this call.
4 That relates to the second segment, which I am not playing
5 with this witness. I am only playing the first segment, which
6 is the conversation about Marzook in the phonebook.

7 MS. HOLLANDER: Okay.

8 MR. DRATEL: Okay. So we will reserve --

9 MS. HOLLANDER: I am sorry. I thought this is what
10 he was --

11 MR. DRATEL: We have something that continues as
12 well.

13 THE COURT: So it goes beyond?

14 MR. DRATEL: Yes, but it is the next segment.

15 MR. JONAS: I am not sure what that is going to be.
16 We can address it at that time.

17 (The following was had in the presence and hearing
18 of the jury.)

19 THE COURT: Yes. Go ahead.

20 MR. JONAS: It is admitted, I assume, Your Honor?

21 THE COURT: Those are admitted.

22 MR. JONAS: If we can play the first segment of
23 El-Mezain Wiretap No. 11-A.

24 (Whereupon, El-Mezain Wiretap 11 was played, while
25 questions were propounded.)

1 Q. (BY MR. JONAS) Agent Burns, who is SH?

2 A. That is the Defendant Shukri Abu Baker.

3 Q. Who is MO?

4 A. That is the Defendant Mohammad El-Mezain.

5 Q. Okay. Agent Burns, who is Abu Omar?

6 A. That is the nickname for Mousa Abu Marzook.

7 Q. His Abu name?

8 A. Yes.

9 Q. His oldest son is named Omar?

10 A. Correct.

11 Q. Agent Burns, you see it says SB 210?

12 A. I see that.

13 Q. What is that? Do you know?

14 A. I think that is just an error on the screen. On the
15 actual transcript that is Shukri Abu Baker SH saying 210.

16 Q. So that is just out of place?

17 A. That is correct.

18 Q. Okay. Do you see where the Defendant Mohammad El-Mezain
19 says "In one lump sum"?

20 A. Yes.

21 Q. Was the payment the \$210,000 by Marzook to the HLF in one
22 lump sum?

23 A. No.

24 Q. How many sums was it in?

25 A. Three sums, three transactions.

1 Q. Do you see where it said -- the Defendant Shukri Baker
2 said, "We have no relationship issue," and politics right
3 above it. Was there a relationship between the Defendants,
4 HLF, and Marzook at this time period and going back to 1988?

5 A. Yes. The documents that we have reviewed indicate --

6 MR. DRATEL: Your Honor, I am going to object to the
7 time period going back, because this call is in 1996.

8 THE COURT: Overruled. Go ahead.

9 THE WITNESS: The documents that we reviewed,
10 primarily on Thursday, but a few today, were dated in the late
11 '80s up until that chart that we saw in 1991 where Mousa Abu
12 Marzook was the head of the Palestine Committee of which the
13 Holy Land Foundation and the Defendants Shukri Abu Baker and
14 Mohammad El-Mezain were a part at that very time.

15 Q. (BY MR. JONAS) Agent Burns, did you review any evidence
16 indicating that in fact there was telephonic contact between
17 Marzook and the Defendants?

18 A. Yes.

19 Q. Are these phone calls that the FBI intercepted?

20 A. No. Primarily this information came from old telephone
21 bills that were seized during search warrants and also what we
22 call toll records, which are records from the phone company
23 that were obtained by the FBI back during the time that -- or
24 in, you know, the early to mid '90s.

25 Q. What time period do you have these phone records for?

1 A. Approximately 1989 to early 1993, I think.

2 Q. Is there a reason why you don't have records for a later
3 time period?

4 A. Well, we didn't have all the phone records, and I don't
5 have all the phone numbers that the Defendants possibly could
6 have used. So I am sure my records are incomplete, but I
7 based my research on what I had available to me.

8 Q. Did you create a chart which summarizes the phone calls
9 between the Defendants and Marzook?

10 A. Yes.

11 MR. JONAS: Your Honor, may I approach the witness?

12 THE COURT: Yes.

13 Q. (BY MR. JONAS) Is this the chart that you are referring
14 to?

15 A. Yes.

16 Q. Is this chart based upon the records you just testified
17 about?

18 A. That is correct.

19 MR. JONAS: Your Honor, at this time I would offer
20 into evidence what is marked as Marzook/Defendant Phone Calls.

21 MS. HOLLANDER: May we approach about this exhibit,
22 Your Honor?

23 THE COURT: All right.

24 (The following was had outside the hearing of the
25 jury.)

1 MS. DUNCAN: Your Honor, this exhibit was originally
2 designated as a demonstrative exhibit by the Government, and
3 then we learned yesterday that they are intending to, and I
4 may be wrong about exactly when, but they are intending to
5 introduce it as a summary.

6 These are not voluminous records. This is not the kind
7 of records that would come in substantive evidence under the
8 summary rule. They are a demonstrative. So we object to it
9 coming in as substantive evidence and as anything other than a
10 demonstrative to illustrate the Agent's testimony.

11 MS. HOLLANDER: All they have are phone records. In
12 other words, they have records of phone calls placed from a
13 phone number to phone number, and I think this is misleading.

14 MS. CADEDDU: I also believe it is misleading, and I
15 have some concerns about others of the Government's summary
16 and demonstrative exhibits because they talk about the
17 Defendants, or Defendants, and my client is not listed on any
18 of those.

19 MR. WESTFALL: May I add one thing?

20 THE COURT: One more.

21 MR. WESTFALL: I haven't heard a single thing that
22 happened here, but for my purposes, they keep saying Marzook
23 and the Defendants. My Defendant isn't in any of this, so I
24 want to just ask for a limiting instruction, but I know you
25 said we are going to take that -- I do not waive my ability to

1 get a limiting instruction before this jury, so how do you
2 want to handle that?

3 THE COURT: We just have to address that. I have
4 not seen that exhibit. Do you have the Defendants, the names
5 on there?

6 MR. JONAS: Yes, sir. The names are right there.

7 THE COURT: Okay. All right. Okay.

8 I think that does qualify as a summary. There are enough
9 calls that it can come in as a substantive chart 106. And
10 then I think it is self-explanatory. I understand the
11 concerns you and Mr. Westfall have, but on its face it names
12 the Defendants, and of course you are asking the witness that.

13 MR. JONAS: I will ask a clarifying question to make
14 sure that we are not talking about the Defendants Abdulqader
15 and Odeh.

16 MS. CADEDDU: I would like to object generally to
17 the Government's statements "Have you seen evidence of such
18 and such between this person and the Defendants." I mean,
19 that implies that it is between other of the Defendants and it
20 isn't.

21 THE COURT: I don't know that the jury is catching
22 all of that. The evidence that comes in will show who the
23 calls are between, so I think the jury can understand what is
24 going on.

25 MS. CADEDDU: I would just like -- If the Government

1 is going to talk about the Defendants, I would like them to
2 perhaps say "some of the Defendants" instead of "the
3 Defendants."

4 THE COURT: It is some of the Defendants. That
5 would probably be good.

6 MR. JONAS: Yes, sir.

7 THE COURT: Okay.

8 (The following was had in the presence and hearing
9 of the jury.)

10 THE COURT: All right. This is a chart, then,
11 Marzook/Some of the Defendants Phone Calls?

12 MR. JONAS: Yes, sir.

13 THE COURT: That is admitted.

14 MR. JONAS: For the record, I would like to also
15 admit the documents that Agent Burns referred to to support
16 this chart, HLF Search Warrant No. 9 and HLF Search Warrant
17 No. 10.

18 Q. (BY MR. JONAS) And Agent Burns, are those phone records
19 HLF Search Warrant No. 9 and 10?

20 A. I am looking to make sure that is all of them, because I
21 don't have a copy of the summary chart. There were --

22 Q. I know there are additional phone records, but HLF Search
23 No. 9 and 10.

24 A. That is correct.

25 MR. JONAS: Also Your Honor, I would like to

1 introduce Bell Atlantic No. 1 and Bell Atlantic No. 2.

2 Q. (BY MR. JONAS) Agent Burns, are those also phone
3 records?

4 A. Yes.

5 MR. JONAS: Also, Your Honor, South Central Bell.

6 Q. (BY MR. JONAS) Agent Burns, are those phone records as
7 well?

8 A. That is correct.

9 MR. JONAS: And lastly, Your Honor, is New Jersey
10 Bell.

11 Q. (BY MR. JONAS) Agent Burns, are those phone records?

12 A. Yes.

13 THE COURT: Any objections to HLF Search No. 9 and
14 10, and then the Bell, South Central Bell and New Jersey phone
15 records?

16 MR. DRATEL: Just time frame.

17 MR. WESTFALL: Your Honor, may I address Mr. Jonas?

18 THE COURT: Sure.

19 MR. WESTFALL: Thank you, Your Honor.

20 THE COURT: And any other objections? Those
21 exhibits are admitted.

22 Q. (BY MR. JONAS) Agent Burns, just to be clear, there are
23 three Defendants listed here?

24 A. That is correct.

25 Q. On the right. Defendant Shukri Baker, Defendant Mohammad

1 El-Mezain, and Defendant Ghassan Elashi. Correct?

2 A. That is correct.

3 Q. And when we have been discussing the relationship between
4 Marzook and some of the Defendants, does that include all five
5 Defendants in this case, or all six if you include the HLF?

6 A. I am sorry. Can you repeat that?

7 Q. Are there any Defendants that did not have this
8 relationship with Marzook that we have been discussing, both
9 monetarily in terms of financial transactions, and phone
10 calls?

11 A. Yes.

12 Q. Who?

13 A. The Defendants Mufid Abdulqader and Abdulrahman Odeh are
14 not included on either the financial chart or the phone chart
15 that we are discussing here.

16 Q. So the Defendants that had a relationship with Marzook
17 are Defendants Shukri Baker, Mohammad El-Mezain, Ghassan
18 Elashi, as well as the Holy Land Foundation?

19 A. The Defendants that had a relationship that I could
20 establish.

21 Q. Can you walk us through this chart, Agent Burns?

22 A. Yes. Basically this chart just indicates phone calls
23 between Marzook and the Defendants that are listed there. The
24 numbers, the telephone numbers for Marzook that were analyzed
25 are listed below Marzook's name. There were five of them; two

1 in Ruston, Louisiana. The 318 area code indicates the
2 Louisiana numbers. And 703 are the phone numbers that he had
3 once he moved to northern Virginia.

4 And then the time periods and the number of calls are
5 listed with an arrow indicating in which direction the phone
6 calls were going. For example, if Marzook -- On the top line
7 Marzook called the Defendant Shukri Abu Baker between January
8 3rd, 1989 and January 22nd, 1990 25 times.

9 And then on the other side it shows for the Defendant
10 Shukri Abu Baker, the phone numbers that were analyzed to put
11 together this chart. So those were the phone numbers
12 belonging to Shukri Abu Baker that Marzook had telephonic
13 contact with.

14 Q. And how soon -- How much time period -- Withdrawn. I
15 wasn't phrasing that correctly. The donation or the money
16 that Marzook gave to the HLF was in 1992, you stated. How
17 soon before that was the first phone call between Marzook and
18 Shukri Abu Baker?

19 A. Several years. 1989, January of 1989, so.

20 Q. And to be clear, did the FBI, as far as you know,
21 intercept any of these phone calls?

22 A. No, they did not. There were no -- During the times of
23 the calls referenced on this chart, there were no wiretaps of
24 any of these individuals.

25 Q. Did the FBI intercept any phone calls at a later time

1 between Marzook and any of the Defendants listed here?

2 A. There may have been one that I am thinking of, but not
3 anymore than that.

4 Q. Okay. And from your review of the evidence and from your
5 review of these records, does this mean that there were no
6 phone calls between Marzook and the Defendants after the last
7 date on this chart?

8 A. No. As I said, I based this chart on the information
9 that I had available to me. I could only base my research on
10 what I had available.

11 Q. Did you try to get phone records going back to 1993
12 forward?

13 A. By the time the criminal investigation was instituted in
14 2001, a lot of older records, they were no longer maintained
15 by the telephone companies. But in addition that, I also
16 didn't have a complete listing of everyone's phone numbers,
17 their cell phone numbers. Mousa Abu Marzook moved overseas in
18 the mid '90s, or was overseas quite a bit. I don't have his
19 numbers for over there.

20 Q. In the Defendant Shukri Baker's deposition that we have
21 been referring to, did he discuss his relationship with
22 Marzook?

23 A. He did.

24 Q. If you can turn to Baker Deposition, page 74, if you have
25 it in front of you. I can hand you a copy, if you need.

1 A. I have it. I just have to find it.

2 MR. JONAS: If you can put it on the screen. I
3 believe it is page 6 of the actual document.

4 THE WITNESS: Okay.

5 Q. (BY MR. JONAS) One moment to get it up on the screen.

6 A. Excuse me, Mr. Jonas. To point out, I think that there
7 is an error on that chart. That is what I wanted to check.
8 The 317 area code is actually for Indiana, not California.
9 That should be Indiana, not California.

10 Q. Okay. Thank you.

11 MR. JONAS: Okay. If we can enlarge the top right
12 hand page. That is 74 and 75.

13 Q. (BY MR. JONAS) Agent Burns, could you read what Shukri
14 Baker said regarding his relationship with Marzook in this
15 sworn deposition?

16 A. Yes. The question was, "How about Mr. Abu Marzook? Do
17 you know who he is?"

18 And Shukri Abu Baker's answer is, "Yes."

19 Question: "Okay. Now, it's my understanding at some
20 point he made a contribution to the Holy Land Foundation. Is
21 that correct?"

22 Answer: "Yes."

23 Question: "Okay. And I want to ask you about that in a
24 minute. Let's put that aside for the moment. Other than that
25 contribution, are you aware of any relationship or involvement

1 that Mr. Abu Marzook had with the Holy Land Foundation?"

2 Answer: "No."

3 Q. Did the Defendant Mohammad El-Mezain also talk about his
4 relationship with Mousa Abu Marzook in his deposition?

5 A. He did.

6 Q. Do you have the El-Mezain Deposition before you?

7 A. I do.

8 Q. Do you have starting on page 57, line 15? And if you
9 don't have that, I can hand you my copy.

10 A. I do.

11 Q. Can you read from page 57, line 15, to page 59, line 10,
12 please.

13 A. Okay.

14 Question: "Now, have you actually met Abu Marzook?"

15 Mohammad El-Mezain's answer is, "Yes."

16 Question: "On how many occasions? Many occasions? One
17 or two?"

18 Answer: "He was living in Fort Collins, Colorado."

19 Question: "When you were there?"

20 Answer: "Yeah."

21 Question: "Did you socialize with Abu Marzook when you
22 were in Fort Collins?"

23 Answer: "Sometimes we sit in the mosque together, with
24 the people of the mosque, basically."

25 Question: "Other than your dealings with Mr. Abu Marzook

1 in the mosque in Fort Collins, did you have any other personal
2 dealings with him?"

3 Answer: "No. You cannot say personal dealings.
4 Sometimes -- Sometimes he call, congratulate our festival or
5 something like that. We go eat after or something like that."

6 Question: "Sometimes he called. When you say, 'our
7 festival,' are you talking about an HLF festival?"

8 Answer: "No. We as mosque" --

9 Q. Agent Burns, let me interrupt you. I believe in
10 discussion with Defense counsel, that is not supposed to be
11 mosque. That is supposed to be Muslims. But please continue.

12 A. "We as Muslims have two festivals like the Christmas."

13 Question: "Right. Like Ramadan?"

14 Answer: "After Ramadan."

15 Question: "Okay."

16 Answer: "This is before he left the country."

17 Question: "Okay."

18 Answer: "After that, nothing more."

19 Question: "When you say, 'He called us,' I guess I was
20 confused. Who is 'us?'"

21 Answer: "He called me."

22 Question: "He called you?"

23 Answer: "Maybe once a year or something like that, or
24 sometimes two, three years. It depends upon his call
25 sometimes. But we don't have any relation, direct relation".

1 Q. Agent Burns, let me interrupt you for a moment. How many
2 calls did Marzook make to El-Mezain in the less than four-year
3 period that is reflected on your chart?

4 A. Fifty-two times.

5 Q. And if he was calling him two or three times a year, per
6 this deposition, during this time period alone, how many calls
7 would there have been?

8 A. He actually says one a year or once every two or three
9 years, so there would have only been a handful.

10 Q. Okay. Please continue.

11 A. Question: "Okay. And these phone calls were around the
12 time of the festivals, the holiday?"

13 Answer: "Yes."

14 Question: "Other than what you've described in terms of
15 these phone calls Mr. Abu Marzook would make around the time
16 of the festivals, your having sat with him in the mosque in
17 Fort Collins, and the distant family relationship, do you have
18 any other relationship with Mr. Abu Marzook over the course of
19 the years?"

20 Answer: "No. Sometimes I saw him in the conferences."

21 Q. That is good enough. Thank you, Agent Burns.

22 Did you look to see if there was a correlation on the
23 dates of the phone calls with any events going on at the Holy
24 Land Foundation?

25 A. I did find a correlation with some of the calls.

1 Q. And before I ask you that, I want to make sure that when
2 you have a time range here for calls, and just using as an
3 example the first one January 3rd, '89 to January 22nd, 1990
4 with the phone calls to the Defendant Shukri Abu Baker, do you
5 have the actual dates of those calls per the phone records?

6 A. Yes. You can actually go to the phone records and look
7 for the telephone numbers referenced and see the actual call,
8 the date, the length of time, et cetera.

9 Q. Okay. And in doing that, did you find a correlation
10 between certain calls and certain events with the Holy Land
11 Foundation?

12 A. Yes.

13 Q. What was your correlation?

14 A. On a couple of occasions I found that phone calls between
15 the parties happened at the time of HLF board meetings.

16 Q. Okay. Did you find that on more than one time?

17 A. I did.

18 Q. Okay. Agent Burns, I want to turn back to where we were
19 earlier this morning, the Occupied Land Fund Disbursements
20 1989 chart. Do you recall that?

21 A. I do.

22 MR. JONAS: If we can just pull that up real quick.
23 I am being instructed I need to put it on the elmo, and I
24 won't do that because I am moving on to another question.

25 Q. (BY MR. JONAS) In that 1989 disbursement chart do you

1 recall seeing payments made to an organization known as the
2 Islamic Relief Association?

3 A. Yes.

4 Q. Is that the right title Islamic Relief Association?

5 A. On the chart it says Islamic Relief. It is actually the
6 Islamic Relief Committee or Association. The word translates
7 to both.

8 Q. Okay. Did you create a sub-chart reflecting payments
9 between the HLF and the Islamic Relief Association?

10 A. Yes.

11 Q. Okay. Do you have that chart before you?

12 A. I don't think I have the chart.

13 Q. Okay.

14 MR. JONAS: Just give me one moment, sir. May I
15 approach?

16 THE COURT: Yes.

17 Q. (BY MR. JONAS) Now do you have the chart?

18 A. I do.

19 Q. Okay. And what is that chart based on?

20 A. This chart is based on search warrant material and also
21 HLF bank records and some Islamic Relief Committee account
22 records.

23 Q. Okay.

24 MR. JONAS: Your Honor, at this time I would offer
25 into evidence Government's Exhibit --

1 Q. (BY MR. JONAS) What is it called on the sticker, Agent
2 Burns?

3 A. It is called Payments to Islam RA.

4 MR. JONAS: I would offer into evidence Government's
5 exhibit Payments to Islam RA.

6 THE COURT: Counsel? That is admitted.

7 MR. JONAS: If we can put the first page on the
8 screen, please.

9 Q. (BY MR. JONAS) What is the title of the chart? I
10 realize it is more expansive than on the sticker.

11 A. "Payments to Islamic Relief Agency (Committee)."

12 Q. And what is the date of the first payment?

13 A. April 12th, 1991.

14 Q. What does it go through? What is the last date of the
15 payment on page 7?

16 A. February 15th, 1996.

17 Q. Now, you see where it says the Hamas designation-SDT
18 1/23/95?

19 A. Yes.

20 Q. Can you explain again what that means, because we have
21 some payments after that date?

22 A. The schedule lists the payments from the HLF to the
23 Islamic Relief Committee chronologically, and the line there
24 indicates the date of the designation so that you can
25 determine which transactions occurred before and after the

1 designations.

2 Q. And are any of these transactions authorized by any of
3 the Defendants in this case?

4 A. Yes.

5 Q. Who?

6 A. The Defendant Ghassan Elashi, the Defendant Shukri Abu
7 Baker.

8 MR. JONAS: Your Honor, at this time as supporting
9 documents I would offer into evidence Government's Exhibit HLF
10 Search No. 44.

11 THE COURT: Admitted.

12 Q. (BY MR. JONAS) Agent Burns, let's just look at the last
13 transaction, the \$40,000 transaction, February 1996.

14 A. Uh-huh.

15 MR. JONAS: If we can put HLF Bank Account No. 1,
16 page 732 on the screen.

17 Q. (BY MR. JONAS) Is HLF Bank Account No. 1 a large
18 exhibit?

19 A. Yes, it is.

20 Q. And what is this document?

21 A. This is the signature card for that bank account.

22 Q. This is page 1 actually. Right?

23 A. That is correct.

24 Q. And whose name do you see on this card?

25 A. The Defendants Ghassan Elashi and Shukri Abu Baker.

1 MR. JONAS: Can we get page 732, please, on the
2 screen?

3 Q. (BY MR. JONAS) Does this reflect -- this item reflect
4 the payment to Islamic Relief?

5 A. This is part of the statement. I believe you have to
6 scroll to some of the later pages to actually see the exact
7 transaction.

8 MR. JONAS: Let's go to next page, please.

9 Q. (BY MR. JONAS) Do you see it here?

10 A. Yes. The wire transfer was dated February 15th, 1996 in
11 the amount of \$40,000. So if you look on the statement
12 February 15th, you can scroll across and see wire transfer
13 \$40,000.

14 Q. How do you know that went to the Islamic Relief
15 Association?

16 A. I believe if we scroll forward we will see the exact
17 item. If not, then it is based on the search warrant records
18 that are also referenced in the exhibit column.

19 Q. So the item that is telling you where this money went is
20 contained either in the bank records or the search warrant
21 records.

22 A. They are referenced here, yes.

23 Q. And the schedule tells people where to go to find those
24 items?

25 A. That is correct.

1 Q. We are not going to go through every single page. Okay?

2 A. Okay.

3 Q. Did you find the letter in Elbarasse's material regarding
4 a request for \$100,000?

5 A. Yes, I did.

6 Q. Do you have Elbarasse Search No. 17 before you?

7 A. I do.

8 Q. What is the date of that letter, if it is dated?

9 A. It is dated July 20th. Based on the content, we were
10 able to put it in 1992.

11 Q. Okay. Do you have the author of the letter, who signed
12 it?

13 A. It was signed in code.

14 Q. Is it addressed to anybody?

15 A. It is not.

16 MR. JONAS: Your Honor, at this time I would offer
17 into evidence Government's Exhibit Elbarasse Search No. 17.

18 MS. MORENO: Subject to our previous objections,
19 Your Honor.

20 THE COURT: All right. That is admitted.

21 Q. (BY MR. JONAS) Agent Burns, do you have in front of you
22 InfoCom Search No. 3 as well?

23 A. I do.

24 Q. What is that item?

25 A. This is a project summary report for an HLF project with

1 the Islamic Relief Committee.

2 Q. Agent Burns, am I going somewhere with these random
3 questions?

4 A. Yes, you are, I think.

5 MR. JONAS: Your Honor, at this time I would offer
6 into evidence Government's exhibit InfoCom Search No. 3.

7 THE COURT: That is admitted.

8 Q. (BY MR. JONAS) And finally, Agent Burns, do you have
9 Government's exhibit InfoCom Search No. 4 before you?

10 A. I do.

11 Q. Okay. What is that item?

12 A. It is also an HLF project summary report found at
13 InfoCom.

14 MR. JONAS: Your Honor, I would offer into evidence
15 Government's Exhibit InfoCom Search No. 3.

16 THE COURT: And you are also offering No. 4?

17 MR. JONAS: I meant No. 4, yes, sir.

18 THE COURT: I thought you identified 3 and 4.

19 MR. JONAS: I believe I did No. 3, and I think that
20 was admitted.

21 THE COURT: You are right. It is admitted. No. 4
22 is admitted.

23 Q. (BY MR. JONAS) Agent Burns, with regard to Elbarasse
24 Search No. 17, with regard to some of these phone calls from
25 Marzook, with regard to some of the bank records that we have

1 looked at, and for the moment I will talk about InfoCom Search
2 No. 3, is there a correlation?

3 A. I found that certain circumstances and events happened
4 during a relevant time period that all seemed to fit together.

5 Q. Okay. And did you create a chart that would demonstrate
6 these events, a timeline, coming together?

7 A. I did I created a timeline.

8 Q. Do you have before you what has been marked as
9 Demonstrative No. 8?

10 A. I do not have the demonstrative.

11 MR. JONAS: May I have a moment, please?

12 THE COURT: Yes.

13 MR. JONAS: Your Honor, we don't have a copy up
14 here. I think we left ours downstairs.

15 Q. (BY MR. JONAS) Agent Burns, do you know what I am
16 referring to when I refer to Demonstrative No. 8?

17 A. I do.

18 Q. Did you create Demonstrative No. 8?

19 A. Yes.

20 Q. And is it based upon the documents that are currently in
21 evidence?

22 A. That is correct.

23 MR. JONAS: Your Honor, at this time I would offer
24 into evidence Demonstrative No. 8.

25 MS. MORENO: Excuse me, Your Honor. I don't have it

1 so I can't -- I have seen it, but it is not in this particular
2 group that I have, and I would object; hearsay, it is
3 misleading, 403, it is inaccurate.

4 THE COURT: And it is based on documents that are
5 already in evidence, you say?

6 MR. JONAS: Yes, sir.

7 THE COURT: It is admitted. Those objections are
8 overruled.

9 MS. CADEDDU: Can I clarify? It is admitted as a
10 demonstrative?

11 THE COURT: It is admitted as a demonstrative.

12 Q. (BY MR. JONAS) Agent Burns, do you see on the screen
13 Demonstrative No. 8?

14 A. Yes.

15 Q. Can you walk us through what is going on here?

16 A. I can. The first --

17 Q. Before you do that --

18 MR. JONAS: Your Honor, there is one more exhibit I
19 believe that is on this document that I didn't offer into
20 evidence, InfoCom Search No. 22.

21 Q. (BY MR. JONAS) What is InfoCom Search No. 22, Agent
22 Burns?

23 A. It was a document seized from InfoCom that relates to the
24 set of events that we are discussing.

25 MR. JONAS: I will offer into evidence InfoCom

1 Search No. 22.

2 THE COURT: Counsel? That is admitted.

3 MR. JONAS: Agent Burns, if you can walk us through
4 these series of events and the time frame they occur.

5 A. Okay. The first item listed on the timeline relates to
6 exhibit Elbarasse Search No. 17, which is a letter that was
7 found in the search warrant of Mr. Elbarasse's home, among a
8 lot of other materials belonging to Mousa Abu Marzook.

9 Q. Hold on a moment.

10 MR. JONAS: Let's put that on the screen Elbarasse
11 Search No. 17, please. We can look at that letter.

12 Q. (BY MR. JONAS) What language was that letter found in,
13 by the way?

14 A. It was in Arabic.

15 Q. Did the FBI have it translated?

16 A. Yes.

17 MR. JONAS: If you can put the next page, please.

18 Q. (BY MR. JONAS) Agent Burns, could you read that letter,
19 please? It is fairly short.

20 A. Yes. It says, "In the name of God the beneficent, the
21 merciful. New daring operations for Ezz Eddin al-Qassam
22 Brigades."

23 Q. Let me pause you for a moment. What is that Izz el-Din
24 al-Qassam Brigades?

25 A. That is the Hamas military wing.

1 Q. Have you seen that in some of the documents we have
2 discussed?

3 A. Yes.

4 Q. The Hamas charter?

5 A. Yes.

6 Q. Please go on.

7 A. Actually I don't believe it was in the Hamas charter,
8 but, I mean, it has been in several of the documents that we
9 have referenced.

10 Q. Okay.

11 A. "In response to the martyrdom of the military leader of
12 Ezz Eddin al-Qassam Brigades, the military wing of the Islamic
13 Resistance Movement, Hamas, the Brigades carried out a violent
14 attack on a Zionist military patrol unit in the Jibalia region
15 on Saturday July 18th. The attack led to the injury of a
16 number of the patrol unit members, and the heroes of the
17 Brigades returned safely to their bases.

18 "It is a jihad for the sake of God. A victory or a
19 martyrdom.

20 "We have bargains of very modern and different pieces of
21 steel in front of us, and they are being offered to us for
22 purchase now. Otherwise, they will be offered to Fatah.
23 Therefore we hope" --

24 Q. Agent Burns, I am sorry. Have we seen Fatah in this
25 case?

1 A. Yes.

2 Q. What is Fatah?

3 A. It is basically the secular party in the Palestinian
4 territories, the party of Yasser Arafat.

5 Q. Please continue.

6 A. "Therefore we hope that you send \$100,000 very quickly to
7 conclude the bargains before they are sold, as the positive is
8 in dire need for them to replace the old pieces, all of which
9 are not worth one new piece.

10 "Send us the approved budget for the company for month 7.

11 "Salah the treasurer still refuses to give us the sum of
12 money. Contact him as our financial situation is difficult.

13 "Yesterday an agreement to solve Fatah's problem has been
14 reached, and if the assaults continue we will respond to Fatah
15 in the appropriate manner.

16 "May God bless you. July 20th."

17 Signed Seven Up.

18 Q. Were you ever able to determine who Seven Up is?

19 A. I don't know.

20 MR. JONAS: If we can go back to Demonstrative No. 8
21 now, please.

22 Q. (BY MR. JONAS) Please continue explaining this timeline.

23 A. On July 30th, telephone records referenced here indicate
24 that Hamas leader Mousa Abu Marzook placed a phone call to the
25 Defendant Mohammad El-Mezain.

1 Q. Let me ask you -- There are two pictures under that
2 reference. Who are they?

3 A. The one on top is Hamas leader Mousa Abu Marzook and the
4 one below is the Defendant Mohammad El-Mezain.

5 Q. Please continue.

6 A. Two days later Mousa Abu Marzook issued a \$100,000 check
7 to the HLF.

8 Q. Is that reflected on the summary schedule we looked at
9 before of money moving from Marzook to the HLF?

10 A. It is. And the check is located in the bank account
11 referenced, the exhibit referenced here.

12 Q. Is that part of the \$210,000 that has been discussed?

13 A. Yes.

14 Q. Please continue.

15 A. Five days later the Holy Land Foundation approved a
16 project called Project 236 for \$100,000 for prisoners'
17 families through the Islamic Relief Committee. And the wire
18 in that case was requested by the Defendant Ghassan Elashi.

19 Q. Is that a picture of the Defendant there?

20 A. It is.

21 Q. Continue.

22 A. Then four days later the HLF actually wired \$100,000 to
23 the Islamic Relief Committee for that project.

24 Q. Did you look at InfoCom Search No. 3, the project binder,
25 which supported the \$100,000 payment?

1 A. Yes.

2 Q. And were you able to -- Based upon the documents
3 contained within that project binder, were you able to account
4 for the \$100,000 being used for anything?

5 A. The project was very confusing. The initial
6 documentation from the time --

7 MR. DRATEL: I object that the project was
8 confusing, Your Honor.

9 THE COURT: Overruled. Go ahead.

10 THE WITNESS: The time of the initial project in
11 1992, the paperwork indicates that there was \$100,000 to go to
12 100 needy families. Attached to that were applications for
13 approximately 100 families with a suggested amount to be
14 issued to those families. Two years later --

15 Q. (BY MR. JONAS) I am sorry. Before you go forward,
16 roughly how much was the suggested amounts?

17 A. The suggested amounts varied, but on average about \$200
18 per family.

19 Q. Did you figure out how much, based on those suggested
20 amounts, should have gone to those 100 families?

21 A. Much less than \$100,000. If you multiply on average \$200
22 for 100 families you have \$20,000.

23 But again, about two years later -- And if we could go to
24 that exhibit, I can show you what I am talking about.

25 Q. Sure. Which page number?

1 A. Okay. If you go to page -- It is a very large exhibit
2 because of the 100 families whose applications are attached.

3 Q. Are those 100 family applications, would that be
4 supporting documentation for the wire transfer?

5 A. Correct. As I said, the initial paperwork said this
6 \$100,000 was to go to 100 needy family, and then approximately
7 100 needy family applications were attached.

8 If you go to 336 of the exhibit, which is --

9 Q. InfoCom Search No. 3?

10 A. Yes. This is the Arabic version of the document, and I
11 believe the translation is hopefully just after this. Yes.
12 Later, two years after the initial project, a final report was
13 filed along with this indicating that \$100,000 was issued to
14 500 families.

15 Q. Did you find supporting documentation for 500 families?

16 A. No. As I said, the paperwork included the initial 100
17 family applications.

18 Q. Did you look to see if the paperwork for the 400
19 additional families were anywhere in the search warrant
20 material?

21 A. I looked for Project 236, and I could not find any
22 additional families that went along with this project.

23 Q. Okay. Agent Burns, after this first initial \$100,000
24 transaction occurred, did you see something similar happen
25 shortly thereafter?

1 A. Yes, very shortly thereafter.

2 Q. Did you create a timeline as part of Demonstrative No. 8?

3 A. I did.

4 MR. JONAS: Your Honor, if we can put on the second
5 page of Demonstrative No. 8.

6 Q. (BY MR. JONAS) What is happening now? This is how soon
7 after the last event?

8 A. Very soon after the actual -- the last wire went over to
9 the Islamic Relief Committee, but a week after or two weeks
10 after everything started in the last chart.

11 Q. Go ahead.

12 A. Okay. On August 10th, 1992, Hamas leader Mousa Abu
13 Marzook placed another call to the Defendant Mohammad
14 El-Mezain. On that same day he issued another check for
15 \$100,000 to the HLF. Two days later we located or there was a
16 fax dated August 12th, 1992 found in the Elbarasse materials.

17 Q. Let me stop you for a moment. Is Elbarasse Search No. 18
18 that fax?

19 A. It is.

20 Q. And does it relate to these transactions that you are
21 testifying about?

22 A. It does.

23 MR. JONAS: Your Honor, I am not sure if I offered
24 Elbarasse Search No. 18 into evidence. I am doing so at this
25 time, if I have not already.

1 THE COURT: I don't show it in. Any objection to
2 that? It is admitted.

3 MR. JONAS: And why don't we pull up Elbarasse
4 Search No. 18 and look at it.

5 Q. (BY MR. JONAS) Okay. It is in Arabic. Is that correct,
6 Agent Burns?

7 A. That is correct.

8 Q. Did the FBI translate it?

9 A. Yes.

10 Q. What page is the English on?

11 A. Well, at first if you look on the original in the Arabic
12 it says from Islamic Relief Committee or Islamic REL Committee
13 with the date August 12, 1992.

14 Q. Is that the same committee that we looked at the last
15 financial summary chart of where payments began in the early
16 '90s, I believe, and ended up after Hamas is designated?

17 A. We looked at the chart from the HLF the to Islamic Relief
18 Committee. Correct.

19 Q. By the way, how much did HLF pay the Islamic Relief
20 Committee in total?

21 A. Over \$1.4 million.

22 Q. Okay. What is the first page of the English on this
23 document?

24 A. It is page 10.

25 Q. And what is it about this document that drew your

1 attention?

2 A. It was addressed to the brothers, and it was found at
3 Ismail Elbarasse's home, along with all these other documents
4 that we have been talking about. And it is a request -- it is
5 a letter, it is probably about eight pages long, the
6 translation is, anyway, addressed to the brothers, and it
7 reports on a visit of the individual who wrote the letter, to
8 Palestine in 1992 around the same time of the events that we
9 are discussing in these charts.

10 If go to page 13 of the exhibit, and in the middle there
11 where it says "Our beloved...our brothers" the author is
12 saying -- Do you want me to read it?

13 Q. Yes, please.

14 A. "It is an appeal for help from your brothers to you, and
15 from hearts full of wounds, hearts that are not shaken by
16 tornados, and that are not moved by the wind to their brothers
17 in the leadership of Hamas: Do not forsake your
18 brothers...you fill the earth, and the Muslim Ikhwan are in
19 every part of it.

20 "And they tell you, 'Give us weapons and take men whom
21 the world will recognize,' God willing, even if the criminals
22 hate it and even if the Christians and those who stir up
23 sedition hate it.

24 "And if the hateful hate it.

25 "Weapons...to protect your brothers who are threatened by

1 the eagles of treason, weapons to carry out Jihad operations
2 and ask Khan Younis about the day of July 22nd."

3 Q. Is there anything else in that letter of note?

4 A. Yes. On the following page, page 14, the author under
5 the third paragraph says, "Therefore, I appeal to you to take
6 a quick action and find out the needs of the Inside so that
7 the families of our brothers do not suffer more frustrations
8 than what is already there. To my humble knowledge, the
9 transfer channels are now open and without problems.

10 Examining the delivery channels, placing each channel in its
11 main purpose without using its funds for other channel means:

12 No. 1 "The detainees and the needs of their families.
13 Their funds are to be in a specific channel and distributed
14 throughout The Strip.

15 "The martyrs.

16 "Those afflicted among our brothers by the demolition of
17 their homes and severance of income.

18 "The activities...and these are numerous and varying.

19 "The economic projects.

20 The Islamic University.

21 "The Islamic Complex.

22 "The Islamic Society."

23 Q. The Islamic Complex, is that an organization that we have
24 already talked about the HLF sending money to?

25 A. It is.

1 Q. Okay. Agent Burns, you say this came from the Islamic --
2 By the fax title, it came from the Islamic Relief
3 Organization?

4 A. Yes. According to the fax title, that is where it came
5 from.

6 MR. JONAS: And if we can go back to the timeline.

7 Q. (BY MR. JONAS) Please continue explaining.

8 A. Six days after the date of that fax, the HLF approved
9 another \$100,000 wire transfer for the Islamic Relief
10 Committee. And the individuals that were indicated in that
11 committee, and we can go to it in a minute, most of them were
12 families of prisoners.

13 Q. Well, were you able to account for the \$100,000 in this
14 project, this \$100,000 wire?

15 A. No. This project was the same as the last. The initial
16 paperwork -- If we want to go to it, it is InfoCom Search No.
17 4, page 1. You will see there in the middle it indicates that
18 the \$100,000 went to 100 families in Gaza and the West Bank.
19 And all of the supporting documentation, the applications for
20 the families that needed support is attached, again,
21 approximately 100 families. And as I stated in that chart, a
22 majority of the families were family members of people who
23 were detained, and that documentation is contained herein.

24 In this project as well as the other one, there was a
25 report on page 3 is the Arabic version, that in November of

1 1994 was filled out. And I am not sure what page the
2 translation is on. If it is not immediately after that we
3 will have to scroll through for the translation. But
4 basically it says the same thing as the previous one did--that
5 there were 500 families sponsored.

6 Q. Did you find supporting documentation for 500 families in
7 this project?

8 A. No, I did not.

9 Q. So again, if you are looking at 100 families at
10 approximately \$200 a family, \$20,000 is accounted for?

11 A. That is true.

12 Q. And this wire was for \$100,000?

13 A. That is correct.

14 MR. JONAS: If we can go back to the chart, please,
15 the timeline.

16 Q. (BY MR. JONAS) What happened after the \$100,000 was
17 approved by Ghassan Elashi to send to the Islamic Relief
18 Association?

19 A. The next day the money was actually sent, the \$100,000
20 was sent from the HLF to the Islamic Relief Committee.

21 Q. Thank you.

22 MR. JONAS: Your Honor, I know it is a few minutes
23 early, but I am at a real good breaking point.

24 THE COURT: Let's take a break. Be back at 1:45.

25 (Whereupon, the jury left the courtroom.)

1 THE COURT: Agent, you may step down.

2 Ma'am, on the front row with that magazine, let me see
3 those documents you are holding up. I could read them from
4 here. Come up here a minute.

5 Everybody else can have a seat.

6 Mr. Jonas, do you want to take the documents there?

7 Hand those to Mr. Jonas so I can see what it is you are
8 holding up. I could read something.

9 MR. JONAS: Evolution. The back part is disputed
10 territories.

11 THE COURT: Flip to the front. The magazine is
12 open. I saw something. And then the other side. That is
13 what I saw. That is what I read.

14 That is inappropriate for you to have that in here,
15 ma'am. And I heard that you were displaying it out in the
16 hall earlier. That is totally inappropriate. We have jurors
17 that are coming in and out. I don't know whether you are
18 trying to influence jurors or not.

19 UNIDENTIFIED OBSERVER: I am just trying to be
20 informed about this.

21 THE COURT: You can be here, certainly, and be
22 informed, but it is not proper to try and influence. It is
23 improper to be showing it in here and be carrying it out there
24 where others can see that.

25 THE OBSERVER: I appreciate that.

1 THE COURT: Make sure you don't do that. That is
2 totally inappropriate.

3 THE OBSERVER: Thank you very much.

4 THE COURT: All right. We are in recess.

5 (Lunch Recess.)

6 MS. CADEDDU: Your Honor, may we approach?

7 THE COURT: Sure. Come on up.

8 (The following was had outside the presence and
9 hearing of the jury.)

10 THE COURT: Here we are again.

11 MS. CADEDDU: Here we are again. I am sorry.

12 Your Honor, I was unaware until today of the lady you
13 called out and what she was doing. But I wanted to put on the
14 record exactly what the article said and where she was sitting
15 and what she was doing.

16 But before I do that, it has come to our attention that
17 people in the gallery have us that she was holding up another
18 article that said " Hamas rock star " during the Government's
19 playing my client's performances with the band during the
20 video being played for those.

21 She also today was --

22 THE COURT: Last week?

23 MS. CADEDDU: That was Thursday, yes, sir.

24 And today during breaks she was showing that article to
25 various people in the hallway. And then during the lunch

1 break, I actually saw this myself, she was pulled aside by the
2 CSO who asked I think for identification, and then when that
3 interchange was done, she and her friend went and stood next
4 to two of the jurors who were waiting for an elevator and
5 proceeded to have a conversation and paged through the
6 documents. This was after you instructed her.

7 THE COURT: Just now at the lunch break?

8 MS. CADEDDU: Yes. And to put on the record, the
9 article that she was holding up for the Court said "Hate
10 speech is not free speech." And she was sitting directly
11 behind -- and I am not suggesting the Government had anything
12 to do with it, but that is where she was sitting.

13 THE COURT: In the middle of the courtroom.

14 MS. CADEDDU: Yes. So what we would like to do is
15 to make inquiry of her the next time she is here about whether
16 she has had any interchanges with jurors and whether she has
17 shown them any documents or had any discussions with them. I
18 mean, this is obviously of a very great concern.

19 THE COURT: All right.

20 MR. CLINE: Your Honor, if I may add, in addition to
21 making the inquiry, admonish her again not to have inside or
22 outside the courtroom, any contact with the jurors. She seems
23 like a person on a mission.

24 THE COURT: Do you know her?

25 MR. JONAS: No, sir. We have no idea who she is.

1 MS. HOLLANDER: If I may add a little bit, she is
2 also drawing pictures, and I don't think we can stop her from
3 this.

4 THE COURT: We might, depending on what she is
5 drawing.

6 MS. HOLLANDER: She is drawing counsel. She was
7 drawing one of the Defendants' and daughter.

8 MS. MORENO: Only if it is flattering to me.
9 Otherwise --

10 MS. HOLLANDER: But I just want to make that part of
11 the record, that that is what she is doing, and she was
12 writing in Hebrew.

13 THE COURT: Okay. Just remind me next time she is
14 in, and we will find a good time to break and I will talk to
15 her about that, and I will talk to the CSOs and see what they
16 saw as far as with having any contact.

17 MR. JACKS: I might have missed, how do we know what
18 the articles were about or anything?

19 THE COURT: I don't know what they were about, but
20 what I saw it said "Hate speech is not free speech." Of
21 course, that is related to what is going on here, and we don't
22 need that.

23 MR. JACKS: I understand.

24 THE COURT: She got up, as soon as they said, "All
25 rise for the jury," she stood up and I saw that right away.

1 So I know the jury could see if they were looking. The jury
2 is coming this way, so hopefully nobody saw it. But by the
3 time she came up to Barry, she had already flipped the page
4 and that is not what was showing, so it she indicated to me
5 she knew, she was hiding it. And I had already heard that
6 there was somebody showing something, but wasn't real
7 specific. But when I saw that -- I knew it was her, but then
8 when I saw that, that just caught my attention right away.

9 MS. CADEDDU: Just for the record, Your Honor, the
10 reason we know what the article said that she was showing to
11 people is because she actually showed it to Ms. Hollander's
12 paralegal. The article said, "Hamas' rock star," and was
13 showing her "Is this Mufid? Is this his picture? This is
14 Mufid Abdulqader And so she approached her without knowing who
15 she was or who she was associated with.

16 THE COURT: In the courtroom or in the hall?

17 MS. CADEDDU: I believe in the hallway on a break.
18 And of course our jurors are milling around with everyone
19 else.

20 MR. CLINE: Your Honor, two other quick things
21 before we break here. I talked with Mr. Jonas, and with the
22 Court's permission these 106 issues that keep coming up, if
23 you don't mind, we would prefer to raise those on cross.

24 THE COURT: Yeah. I don't mind. That is generally
25 the cleaner way to do it, rather than having to have this.

1 MR. CLINE: The Government will reserve its
2 objections under 106 to particular things we want to put in,
3 but it won't argue we are too late because we are doing it on
4 cross.

5 THE COURT: At that point I don't think it is even a
6 106. If it is relevant you are entitled to cross on something
7 that you think is relevant and get it in. 106 is a
8 contemporaneous issue, and then you have to read it and take a
9 look at everything. That is not a decision that I can always
10 make just real quick. It takes some time.

11 MR. CLINE: So we will do that on cross.

12 THE COURT: I think you will get a lot more latitude
13 on cross.

14 MS. HOLLANDER: But it can still be a 106 on cross?

15 THE COURT: If you want to call it that. I just
16 generally call it cross.

17 MR. WESTFALL: Just related writings and the rest of
18 the documents will come into evidence.

19 THE COURT: 106, I see this as a narrow rule. It is
20 something that should be considered contemporaneous, and that
21 is a narrow rule. I generally like to do it, prefer that you
22 do it on cross, and you can get into whatever you want to on
23 cross, if it is relevant.

24 MR. CLINE: The other thing is--again, I took this
25 up with Mr. Jonas--we had the discussion this morning about

1 giving the Government on cross exhibits, which we will do.
2 Mr. Jonas has agreed on behalf of the Government, and I agree
3 on behalf of all the Defense, that we will not show that list
4 to the witness who is on cross so that if there is an element
5 of surprise to be had, we will preserve it, but the Government
6 can prepare.

7 THE COURT: I think that is the way to handle it.

8 MS. MORENO: And also that may not be exhaustive,
9 depending upon what testimony the witness --

10 THE COURT: I understand.

11 MR. CLINE: We will make a good faith effort to do
12 that.

13 THE COURT: You should know most of it, but if
14 something comes up we can all live with that.

15 (The following was had in the presence and hearing
16 of the jury.)

17 THE COURT: Mr. Jonas?

18 MR. JONAS: Thank you, sir.

19 Q. (BY MR. JONAS) Agent Burns, I want to get back and talk
20 about the Palestine Committee.

21 A. Okay.

22 Q. Did the Palestine Committee have any meetings that were
23 recorded by the FBI?

24 A. Yes.

25 Q. And is there one in particular that stands out in your

1 mind?

2 A. There is.

3 Q. When did that meeting occur?

4 A. October 2nd and 3rd of 1993.

5 Q. I am sorry. Could you repeat that?

6 A. October 2nd and 3rd of 1993.

7 Q. Where did it take place?

8 A. At a Courtyard by Marriott in Philadelphia, Pennsylvania.

9 Q. With regard to the Israeli-Palestinian issues, what was
10 going on at that time?

11 A. The Oslo Peace Accords had just been signed.

12 Q. Did the FBI record this entire meeting?

13 A. They did.

14 Q. And was the recording transcribed into a transcript?

15 A. Yes. A majority of the conversation was in Arabic, and
16 there were English transcriptions of the conversations, and I
17 have reviewed those.

18 Q. Okay. Generally speaking, what was the purpose of the
19 meeting?

20 A. The purpose of the meeting was for the Palestinian
21 Committee members to discuss how they were going to continue
22 to operate in the United States in light of the signing of the
23 peace accords between the Palestinians and the Israelis.

24 Q. Okay. For purposes of your testimony, would it be fair
25 to call this the Philadelphia meeting or the Philly meeting?

1 A. Yes.

2 Q. Were there planning conversations on the
3 call -- Withdrawn. Did any of the Defendants or any of the
4 participants have any phone calls where they discussed the
5 planing of the Philadelphia meeting?

6 A. Yes.

7 Q. And were those phone calls intercepted by the FBI?

8 A. Some of them were, yes.

9 Q. Do you have what has been marked Ashqar Wiretap No. 1?

10 A. I do.

11 Q. And can you remind us who Ashqar is?

12 A. Ashqar is one of the members of the Palestinian Committee
13 that we saw on the list. Also his home is the one that was
14 searched in that covert search in December of '93.

15 Q. With regard to Ashqar Wiretap No. 1, who are the
16 participants in this call?

17 A. Abdel Haleem Ashqar, the Defendant Shukri Abu Baker, and
18 Omar Yehia, also known as Omar Ahmad.

19 Q. What is the date of the call?

20 A. September 13th, 1993.

21 MR. JONAS: Your Honor, at this time I would offer
22 into evidence Ashqar Wiretap No. 1 and 1-A.

23 THE COURT: That is admitted. .

24 Q. (BY MR. JONAS) And again, Agent Burns, is this the whole
25 call that we have, or are we offering into evidence a redacted

1 version?

2 A. We are offering portions of the call.

3 Q. All right.

4 MR. JONAS: If we can play the portions that we
5 have, please.

6 (Whereupon, Ashqar Wiretap No. 1 was played while
7 questions were propounded.)

8 Q. (BY MR. JONAS) Agent Burns, this is moving pretty fast.
9 Do you know why it is going fast, the words on the screen?

10 A. It is my understanding that the language specialist and
11 the technical people tried to marry up the actual Arabic that
12 is spoken with the English on the screen, and they are
13 speaking very fast on the phone, so the print is going to run
14 very fast on the screen.

15 MR. JONAS: With Your Honor's permission, I may stop
16 it every few moments just to let everyone catch up.

17 THE COURT: Sure.

18 Q. (BY MR. JONAS) Agent Burns, who is OM?

19 A. That is Omar Ahmad.

20 Q. And who is SH?

21 A. The Defendant Shukri Abu Baker.

22 Q. It said a moment ago Association and Fund. Where have we
23 seen those names?

24 A. The Association is the IAP, and the Fund is the Occupied
25 Land Fund or the Holy Land Foundation.

1 THE COURT: I don't know that the jury remembers
2 always what these acronyms are.

3 THE WITNESS: The Islamic Association for Palestine,
4 the IAP.

5 Q. (BY MR. JONAS) And where have we seen the IAP and the
6 HLF together?

7 A. Organizations that were part of the Palestine Committee.

8 Q. Do you see where Omar mentions Abu Ibrahim?

9 A. Yes.

10 Q. Who is that?

11 A. That is the Defendant Mohammad El-Mezain.

12 Q. Do you know who Aboul Hasan is?

13 A. Aboul Hasan is the nickname for Abdel Haleem Ashqar, who
14 is also a participant in this call.

15 Q. Would that be AB, the next person speaking?

16 A. That is correct.

17 Q. Who is Abu Mohamed?

18 A. Shukri Abu Baker uses the name Abu Mohamed, but I believe
19 Omar Ahmad also uses that nickname.

20 Q. Agent Burns, they mentioned an individual who is out in
21 the media all the time. Did they say that person's name?

22 A. They did.

23 Q. Who is that person?

24 A. Mohamed Helmy.

25 Q. Do you know who he is?

1 A. There is a Mohamed Helmy Jerad in the Chicago area that I
2 believe he is referring to.

3 Q. Is he part of the Palestine Committee?

4 A. He was at one point.

5 Q. Agent Burns, what does the UI mean in brackets?

6 A. Unintelligible. That means the translator couldn't
7 understand exactly what was being said there.

8 Q. Where Shukri Baker says, "Because of the Friday sermon
9 that one gets the Foundation in grave trouble," what is the
10 Foundation?

11 A. The Holy Land Foundation.

12 Q. Agent Burns, again Abu Ibrahim is who?

13 A. Defendant Mohammad El-Mezain.

14 Q. Agent Burns, there is a discussion of papers and writing.
15 From your review of the Philadelphia transcript, were papers
16 presented to the participants?

17 A. Yes, they were.

18 Q. And what does that mean?

19 A. Well, the Philadelphia meeting was separated into
20 sessions based on topics, and individuals wrote papers
21 regarding certain topics, like media and charity work, and
22 presented those papers to the meeting attendees and they
23 discussed the papers.

24 Q. Okay. Agent Burns, do you see where it says SC in
25 parentheticals?

1 A. I do.

2 Q. Do you know what that means?

3 A. Simultaneous conversation.

4 Q. Two people speaking at once?

5 A. Yes.

6 Q. Do you see where it says "Haitham from the Fund"?

7 A. I do.

8 Q. Who is Haitham?

9 A. Haitham Maghawri from the HLF.

10 Q. What was his role at the HLF his title?

11 A. He originally had a different office, but he ultimately
12 became the executive director later on.

13 Q. Agent Burns, do you see where it says, "But at people who
14 have experience about the inside ought to write their visions
15 about the inside, have we seen the term inside in this case
16 already?

17 A. Yes.

18 Q. What does that mean?

19 A. Again, that means inside the Palestinian territories.

20 Q. That would be the West Bank and Gaza?

21 A. That is correct.

22 Q. Agent Burns, was there another call where there was a
23 discussion about the meeting prior to the meeting taking
24 place?

25 A. There was.

1 Q. Do you have before you Ashqar Wiretap No. 2?

2 A. I do.

3 Q. Who are the participants in this call?

4 A. Abdel Haleem Ashqar and Omar Yehia, also known as Omar
5 Ahmad.

6 Q. What is the date of this call?

7 A. This one is dated September 27th, 1993.

8 MR. JONAS: Your Honor, at this time I would offer
9 into evidence Ashqar Wiretap No. 2.

10 THE COURT: That is admitted.

11 MR. JONAS: I don't think we are going to play this
12 one. I think we are just going to read the first page.

13 Q. (BY MR. JONAS) Agent Burns, do you have that in front of
14 you?

15 A. I do.

16 THE COURT: Do you also want to offer 2-A?

17 MR. JONAS: Yes, Your Honor. Thank you for
18 reminding me. No. 2-A.

19 THE COURT: Those are admitted.

20 MR. JONAS: Thank you, sir.

21 MR. JONAS: Page 2.

22 Q. (BY MR. JONAS) Agent Burns, if you can just read this
23 first page, and I will let you know when to stop.

24 MR. DRATEL: Can we get a date of the conversation?

25 Q. (BY MR. JONAS) Agent Burns do you know the date of the

1 call?

2 A. Yes. It is September 27, 1993.

3 Q. Do you see where the date is on the transcript?

4 A. That is correct.

5 Q. Okay. If you can read the first page or the second page
6 of the transcript, the first page where there is actually
7 conversation, and I will let you know when to stop.

8 A. Okay. The first speaker AB is Ashqar, and he says, "By
9 God, no. I mean, nothing. May God protect you. Everything
10 is fine. Nothing new. May God bless you." Abou Mohamed Isam
11 is coming."

12 "Who?"

13 "Isam."

14 "Okay, good God willing."

15 "I am just waiting for what's his name, Riyadh, to send me
16 a reply about the other three, who are Yousif, Salah, and Al
17 Hanooti."

18 "Oh, has not Salah answered you yet?"

19 "By God, my brother, I -- I couldn't get ahold of him.
20 So, God willing, I will catch him tomorrow, I mean. I didn't
21 find him yesterday. And I contracted him a while ago, but
22 nobody answers, I mean, so -- "

23 "Good."

24 "Good. But I don't know -- "

25 "Now, it will become how many, six people, I mean, will

1 come."

2 "Hmm. What's his name, Al Hanooti, Salah as well, Riyadh,
3 Abou Ibrahim, and Isam. That makes it six, I mean".

4 "Jawad."

5 "No. I meant from New Jersey. Six, I mean."

6 "Abou Ibrahim, Riyadh, and Isam. Those three are for
7 sure."

8 Q. Agent Burns, you can stop there. And Abuo Ibrahim is?

9 A. The defendant Mohammad El-Mezain.

10 Q. And where was he living at the time this call took place?

11 A. In New Jersey.

12 Q. Looking at the rest of this transcript, generally what do
13 they talk about?

14 A. Who will be attending the Philadelphia meeting.

15 Q. Is this really following on the heels of the last call
16 that we played?

17 A. It does.

18 Q. Agent Burns, in the course of the material that you
19 reviewed, did you come across any written itinerary for the
20 Philadelphia meeting?

21 A. I did.

22 Q. Do you have before you Ashqar Search No. 4?

23 A. I do.

24 Q. Where did that document come from?

25 A. That came from the covert search of the home of Abdel

1 Haleem Ashqar.

2 Q. And Ashqar was a participant in that first call we just
3 played planning the meeting?

4 A. In both of the calls that we just discussed.

5 MR. JONAS: Your Honor, at this time I would offer
6 into evidence Ashqar Search No. 4.

7 THE COURT: That is admitted.

8 MR. JONAS: If we can put that on the screen,
9 please, starting with the first page. The next page.

10 Q. (BY MR. JONAS) Agent Burns, the first page it
11 said -- Withdrawn. What language is this document in?

12 A. Arabic.

13 MR. JONAS: And if we can go to page 4, please.

14 Q. (BY MR. JONAS) What is the title of this document?

15 A. "Future of Islamic Action for Palestine in North America
16 seminar, 2-3 October, 1993."

17 Q. The title "Islamic Action for Palestine," have we seen
18 that title used in any of the documents you testified about
19 already?

20 A. Yes. I believe it has been in several, most prominently
21 in the October 1992 internal memorandum from the international
22 Muslim Brotherhood.

23 Q. That was one of the Elbarasse documents you testified
24 about?

25 A. That is correct.

1 Q. On this particular document, just summarize it for us so
2 we don't need to read the whole thing.

3 A. Basically it lists under No. 1 the goals of the seminar,
4 the Philadelphia meeting. No. 2, describes how the sessions
5 will be moderated and lists the names of like, for example,
6 session moderator under the first session, if you will scroll
7 down, is the Defendant Shukri Abu Baker. So it identifies the
8 topic of the first session, the people who will participate,
9 the individual who is moderating.

10 And the same thing for the second session, which is
11 charity work, and identifies who will present the papers, and
12 who will be moderating the session.

13 And on the next page it identifies the topic of the third
14 session, and who would be presenting papers, and the moderator
15 of the session.

16 Q. Thank you.

17 Agent Burns, did you create a summary chart identifying
18 who attended the session and the documents that you reviewed
19 that helped you identify those people?

20 A. Yes.

21 Q. What did you base your summary chart on?

22 A. We based the summary chart on a variety of different
23 exhibits--the planning phone calls that we just listened to,
24 the actual meeting transcripts themselves, and in the
25 transcripts we were able to identify some of the speakers at

1 the conference.

2 There were also records from the search warrant
3 indicating -- like American Express bills indicating plane
4 tickets that were purchased for individuals. In addition,
5 there were records obtained from the Marriott Hotel at the
6 time the meeting took place.

7 Q. What Marriott?

8 A. I believe it was Courtyard by Marriott in Philadelphia.

9 MR. JONAS: Your Honor, may I approach?

10 THE COURT: Yes.

11 Q. (BY MR. JONAS) Agent Burns, I am holding up for you what
12 has been marked as Philly Meeting Summary. Is this the chart
13 that you prepared based upon the records you talked about of
14 who attended the Philadelphia meeting?

15 A. Yes, we prepared that.

16 Q. Would this aid the jury in your testimony this afternoon?

17 A. Yes.

18 MR. JONAS: Your Honor, at this time I would offer
19 into evidence Philly Meeting Summary.

20 THE COURT: That is admitted.

21 MR. DRATEL: I am going to object, Your Honor,
22 because it is misleading with respect to Mr. El-Mezain. It
23 says the meeting. He wasn't at the meeting. The Government
24 acknowledges that.

25 MR. JONAS: Agent Burns is going to explain exactly

1 that.

2 THE COURT: That entry? Okay.

3 MS. CADEDDU: I would object for the same reason,
4 Your Honor.

5 THE COURT: Those objections are overruled. That
6 Philadelphia Meeting chart is admitted.

7 Q. (BY MR. JONAS) Agent Burns, let me first start by asking
8 you, the enlargement of this exhibit has tape over a couple of
9 spots. Why is that?

10 A. They were corrections made at the last minute.

11 Q. Okay. The one on the screen, is that the corrected
12 version, the one that is the actual exhibit?

13 A. Yes.

14 Q. Okay. Can you first walk us through this by explaining
15 across the top what the row is?

16 A. Well, the first column would be the attendees, the name
17 of the individual that we will be discussing.

18 The next column are the organizations that the individual
19 belonged to according to the evidence that we have discussed.

20 The next column is a column which references AMEX No. 1,
21 which is an exhibit that we will be discussing here. If that
22 individual appeared in those records as having attended the
23 Philadelphia meeting, there will be a checkmark by that
24 individual's name under that column.

25 The next column is Marriott Hotel records, which were the

1 records that were obtained from the Marriott Hotel at the time
2 of the conference. If the individual Defendant's name appears
3 in those records, a checkmark will appear across from his name
4 under that column.

5 The next column is listed "speaker at conference," and we
6 have 18 transcripts of conversations that took place during
7 the conference that were recorded. If the individual either
8 self-identified or his voice was identified by the language
9 specialist as speaking at the conference, there will be a
10 checkmark under his name on the chart.

11 Next, there were some surveillance photos that were taken
12 by FBI agents back in 1993 of the meeting, and if individuals
13 could be positively identified in any of the surveillance
14 photos, there is a check under that column by their name.

15 And then finally, the last column is for planning phone
16 calls, and if the individuals were mentioned as being invited
17 to attend the conference in those calls, there will be a
18 checkmark by that individual's name under that column.

19 MR. JONAS: Your Honor, at this time I would like to
20 offer into evidence the supporting documentation for this
21 chart, to the extent some of it is not already admitted. We
22 have AMEX No. 1.

23 Q. (BY MR. JONAS) And Agent Burns, whose records are AMEX
24 No. 1?

25 A. AMEX No. 1 are records obtained from the -- I am looking

1 to make sure I am right, because we had American Express
2 records from two different places. From American Express.

3 Q. Whose American Express records are they?

4 A. The Holy Land Foundation.

5 Q. Okay.

6 MR. JONAS: Your Honor, we also offer to admit
7 Marriott.

8 Q. (BY MR. JONAS) What is Marriott? What exhibit is that?

9 A. Marriott is the name of the exhibit for the Marriott
10 Hotel records.

11 MR. JONAS: We offer to admit Philly Meeting No. 1
12 through 18.

13 Q. (BY MR. JONAS) And what is that?

14 A. Those are the English transcriptions of the conversations
15 at the meeting.

16 MR. JONAS: Your Honor, I will have to explain in a
17 moment what we did with those.

18 Q. (BY MR. JONAS) And finally Philly Pictures 1 through 6?

19 A. Those were some of the surveillance photos that agents
20 took back then.

21 Q. Okay.

22 MR. JONAS: Your Honor, with Philly Meeting No. 1
23 through 18, which are the transcripts of this meeting that
24 took place, we are offering it a little bit differently than
25 the intercepted calls. We are offering the whole conference

1 into evidence. And I will have Agent Burns explain in a
2 moment why it is divided into 18. So the audio disk, which
3 would be Philly Meeting No. 1-A is a disk of that whole tape
4 for that section.

5 But in addition, we are offering an excerpted transcript.
6 So we have the full transcript and then an excerpted
7 transcript, and that is Philly Meeting E. So if we have for
8 example, No. 1 would be the full transcript, 1-A is the audio,
9 and 1-E is the excerpt of that particular session of Philly.

10 THE COURT: You are offering No. 1, 1-A and 1-E.

11 MR. JONAS: Yes, sir, through No. 18, 18-A, and
12 18-E.

13 MS. HOLLANDER: I just have a question. We don't
14 have any objection to these, but is that the entire Philly
15 meeting?

16 MR. JONAS: No. 1 through 18 is the entire Philly
17 meeting.

18 MS. HOLLANDER: Okay. We don't object, as long as
19 it is the entire meeting.

20 MR. JONAS: That is my understanding.

21 THE COURT: And the AMEX records is AMEX No. 1?

22 MR. JONAS: Yes, sir.

23 MS. HOLLANDER: We don't object to the others.

24 THE COURT: All right. Those are admitted, then.

25 Q. (BY MR. JONAS) Agent Burns, first of all, why is there

1 18 tapes or transcripts of the Philadelphia meeting?

2 A. As I understand it, back in 1993 the equipment that the
3 FBI used to record these conversations, it was some type of
4 tape. I don't know if it was a cassette tape, or I believe it
5 may have actually been one of those old reel to reels. But
6 they were limited in length, so that once one was filled up
7 they would have to remove it and replace it with a new tape.
8 So we have a transcript for each tape that was made. So there
9 were approximately 18 tape recordings of that meeting.

10 Q. And did the FBI record this meeting pursuant to a court
11 order?

12 A. They did.

13 Q. Was this part of the intelligence investigations of
14 certain individuals?

15 A. It was the intelligence investigation of Ashqar.

16 Q. Agent Burns, there is a blank line about six names, seven
17 names up from the bottom between the name Abu Ahmad and
18 Mohammad El-Mezain. Can you explain why that is?

19 A. Yes. Originally when preparing this chart there were
20 individuals who were invited to attend the conference based on
21 the planning calls, but that we affirmed did not attend for
22 one reason or another. Those individuals were to be listed
23 below that line as having been invited but not having
24 attended.

25 However, there is I believe an error in that the second

1 individual listed, Mohamed Al Hanooti, should appear above the
2 blank line, as there is other evidence that he did in fact
3 attend.

4 Q. Is that other evidence contained within the evidence
5 admitted?

6 A. Yes, it is.

7 Q. Agent Burns, I just want to pull up some of these
8 documents?

9 MR. JONAS: If we can pull up AMEX 1, page 6,
10 please.

11 Your Honor, I assume, just for the record, they are all
12 admitted, the documents I offered into evidence?

13 THE COURT: Yes.

14 MR. JONAS: Thank you, sir.

15 Q. (BY MR. JONAS) Agent Burns, do you see any individuals
16 who went to the Philadelphia conference on this page with
17 particular charges?

18 A. Yes. I am going to look at my hard copy because it is a
19 little bit difficult to read on my screen.

20 Q. We will zoom in as soon as you tell me which one to zoom
21 in on.

22 A. Okay. Third from the top on the left side there, item
23 No. 27 I believe it is called.

24 Q. Who is being paid for here?

25 A. Okay. On this -- Again, this is an American Express

1 bill. It lists the transaction date, which would be the date
2 of purchase. It does not list the date of travel. So this
3 shows that on September 3rd, 1993, a ticket was purchased for
4 Haitham Maghawri from Dallas to Philadelphia. We do not know
5 the exact travel date for that ticket.

6 MR. JONAS: Page 11, please.

7 Q. (BY MR. JONAS) Who is traveling now to Philadelphia?

8 A. At the bottom, the two entries there show that on
9 September 10th, 1993, airline tickets were purchased for
10 Shukri Abu Baker the Defendant, and also the Defendant Ghassan
11 Elashi, from Dallas to Philadelphia.

12 MR. JONAS: Page 12, please.

13 THE WITNESS: I guess the entire middle section you
14 can highlight.

15 This shows that on September 16th up in the upper left
16 corner, September 16, 1993, that the Holy Land Foundation
17 purchased an airline ticket for G. Saleh, who is Ghassan
18 Saleh, from Dallas to Philadelphia.

19 Moving across the page, on September 17th, 1993, the Holy
20 Land Foundation purchased an airline ticket for O. Amhad to
21 Philadelphia, which would be Omar Ahmad.

22 Q. If I can interrupt you for a moment. Where have we seen
23 Omar Ahmad's name on the Elbarasse documents?

24 A. Well, he was listed with the IAP, but also with the
25 Palestine Committee, on the Elbarasse list of Palestinian

1 Committee members and the Ashqar list of Palestinian Committee
2 members.

3 Q. And was he involved in that planning phone call that we
4 played for this meeting?

5 A. Yes, he was.

6 Q. You testified that these are the HLF AMEX records?

7 A. Yes.

8 Q. Was Omar Ahmad an employee of the HLF?

9 A. No, he was not.

10 Q. Was he a board member?

11 A. No.

12 Q. Was he an officer?

13 A. No.

14 Q. Based upon the material that you reviewed, did he have
15 any role with the HLF?

16 A. Only in respect to his role in the Palestinian Committee.

17 Q. Okay. Thank you.

18 MR. JONAS: If we can turn to page 14, please.

19 Q. (BY MR. JONAS) Whose tickets are the HLF paying for
20 here?

21 A. This is Sharif Battikhi, the second from the top on the
22 left column.

23 Q. We saw his name in a document the other day, didn't we?

24 A. We did.

25 Q. Who is he?

1 A. In 1991, he was appointed as a member of the HLF's board
2 of directors.

3 Q. Okay.

4 MR. JONAS: If we can turn to page 12, back to page
5 12.

6 Q. (BY MR. JONAS) Do you see any hotel bills here?

7 A. Yes. In the bottom on the it shows that the HLF paid the
8 Courtyard by Marriott in Philadelphia \$116.41. And you can
9 see the arrival and departure dates, so presumably this would
10 be one room, october 1st through October 3rd.

11 MR. JONAS: Page 13, please.

12 Q. (BY MR. JONAS) Are they paying for more hotel rooms?

13 A. Yes. This entire page is filled with charges to the Holy
14 Land Foundation's American Express bill for rooms at the
15 Courtyard by Marriott in Philadelphia for that time period.

16 MR. JONAS: If we can go back to page 1 on this
17 exhibit. Enlarge the top half, please.

18 Q. (BY MR. JONAS) Do we see -- I just want to confirm it
19 says whose credit card this is?

20 A. The Holy Land Foundation, specifically Shukri Abu Baker's
21 card.

22 Q. And do you see any other individual's names who have
23 access to this card?

24 A. It says card member names down below, Shukri Abu Baker,
25 the Defendant Mohammad El-Mezain, and Haitham Maghawri.

1 Q. Okay. Agent Burns, let's look at the Philly Pictures.
2 If we can put up on the screen Philly Picture 1. You
3 testified these are surveillance photos?

4 A. They are.

5 Q. Do you recognize this individual?

6 A. This person was identified as Ismail Elbarasse.

7 Q. And who is he again?

8 A. One of the IAP members; again, one of the Palestinian
9 Committee members, whose home was search where we obtained
10 most of these documents in Arabic that we have been
11 discussing.

12 Q. Okay.

13 MR. JONAS: Philly Picture No. 2, please.

14 Q. (BY MR. JONAS) Do you recognize this individual?

15 A. Yes. This is a side view of the Defendant Ghassan Elashi
16 in front of the hotel.

17 MR. JONAS: Philly Picture No. 3, please.

18 THE WITNESS: This is a picture of the Defendant
19 Shukri Abu Baker and Ghassan Elashi.

20 MR. JONAS: Philly Picture No. 4, please.

21 THE WITNESS: Again, the Defendants Shukri Abu Baker
22 and Ghassan Elashi.

23 MR. JONAS: No. 5, please.

24 Q. (BY MR. JONAS) Do you recognize these individuals?

25 A. The individual carrying the box is Haitham Maghawri and

1 the other individual has been identified as Mohamed Al
2 Hanooti.

3 Q. Is Mohamed Al Hanooti a member of the Palestine
4 Committee?

5 A. Yes.

6 Q. Pursuant to the Elbarasse documents you have looked at?

7 A. That is correct.

8 MR. JONAS: And finally No. 6.

9 THE WITNESS: The individual in the very back in the
10 glasses with the tie has been identified as Abdel Haleem
11 Ashqar.

12 Q. And are there some other individuals who just happened to
13 get in the picture?

14 A. I don't know who they are.

15 Q. Okay. I want to quickly go to the Marriott records.

16 MR. JONAS: If we can pull up Marriott page 1,
17 please. Whose bill is this?

18 A. It has Shukri Baker's name at the top.

19 MR. JONAS: Next page.

20 Q. (BY MR. JONAS) Whose bill is this one?

21 A. Ghassan Saleh.

22 Q. Who is that?

23 A. This individual is Muin Shabib.

24 Q. Did you hear him on the tape speaking in Philadelphia?

25 A. They spoke about him in the call, in the planning call,

1 and that he would be an attendee.

2 Q. And was he actually there?

3 A. Yes, he was.

4 Q. What does this one indicate?

5 A. This, and a few of the following pages, are of the little
6 signature cards that you sign at the hotel when you check in.
7 This one is in the name, and you can see the original name it
8 was in was Hasan Sabri, and then /Maghawri was written in, and
9 it was signed at the bottom by Haitham Maghawri, the HLF
10 officer.

11 Q. Okay.

12 MR. JONAS: Next.

13 Q. (BY MR. JONAS) What is happening here?

14 A. Again, this one says has the name Hasan Sabri with a line
15 through it and then has Ghassan Saleh and Riad Ahmed written
16 beside it. And I can't tell by whom it is signed.

17 Q. Okay.

18 MR. JONAS: Next.

19 Q. (BY MR. JONAS) Which one is this?

20 A. This one is for room 227 under the name of M. Abdulqader
21 of Richardson, Texas.

22 Q. Who is that?

23 A. That would be the Defendant Mufid Abdulqader.

24 Q. It says void across it. Does that mean he wasn't there?

25 A. He had to have been there because he signed the card, and

1 that is his actual signature at the bottom. I don't know if
2 the room was canceled -- I don't know why the word void was on
3 there, but he had to have at least been present at the hotel
4 to sign the signature card.

5 Q. What does it say in the top right hand side of this
6 document?

7 A. It says "Believe to move to 307 or 301."

8 MR. JONAS: Let me jump to page 13 the Marriott
9 records.

10 Q. (BY MR. JONAS) What is this one?

11 A. This one is the signature hard for room 401 originally in
12 Hasan Sabri's name, then Mohammad El-Mezain's name is noted,
13 and Haitham Maghawri signed for the room.

14 Q. Okay. Thank you. Did Mohammad El-Mezain attend?

15 A. No, he did not.

16 Q. Was that discussed in the Philadelphia meeting?

17 A. Yes.

18 Q. What was the reason for him not attending?

19 A. He was ill and not able to attend.

20 Q. Outside of the meeting did any of the Defendants publicly
21 discuss what the purpose of the meeting was?

22 A. Yes.

23 Q. Who?

24 A. Shukri Abu Baker.

25 Q. If you have before you Baker Declaration, which is

1 already in evidence.

2 A. I do. Bear with me one second while I find it.

3 Q. Sure.

4 A. I have it.

5 MR. JONAS: If we can turn to the third page,
6 please, and put that on the screen.

7 Q. (BY MR. JONAS) The bottom half where it says F, can you
8 read that, please, Agent Burns?

9 A. Yes. He says in his sworn statement, "The 1993
10 Philadelphia meeting was a meeting of Islamic intellectuals,
11 academicians, community leaders, and representatives of
12 American Islamic organizations, such as ours. It was not a
13 meeting of any organization. No decisions were made by any
14 organization about anything. Everyone there spoke their
15 minds."

16 Q. At the Philly meeting was there an announcement made as
17 to the actual purpose of the meeting?

18 A. Yes.

19 MR. JONAS: Your Honor, if we can play Philly
20 Meeting 1 the first tape, segment B, please.

21 (Whereupon, Philly Meeting No. 1, Segment B was
22 played, while questions were propounded.)

23 Q. (BY MR. JONAS) Did you see where it says, "Abou Ibrahim
24 should have been with us but he is at the hospital for those
25 that don't know"?

1 A. Yes.

2 Q. Is that your explanation for why Mohammad El-Mezain
3 wasn't there, to your understanding?

4 A. Yes.

5 Q. In Shukri Baker's declaration did he say this is a
6 meeting of the Palestine Committee?

7 A. No, he doesn't.

8 Q. Do you see where it says "union"?

9 A. I do.

10 Q. Is that correct?

11 A. It is correct, but it is not the --

12 MS. HOLLANDER: Excuse me. Who is speaking? The
13 tape doesn't say who is speaking.

14 THE WITNESS: Omar Ahmad is the individual who is
15 speaking in clip 1. Clip 2 I have to see the beginning of it.

16 Q. (BY MR. JONAS) We are still on clip 1.

17 A. We are still on clip 1? Then it was Omar Ahmad.

18 Q. It says "union." Is that supposed to be Union?

19 A. Union was originally how the word for association was
20 translated. That should be association, meaning the Islamic
21 Association for Palestine.

22 Q. I was corrected. This is the B clip, not the A clip.
23 Does it say who the speaker is on the transcript? If it would
24 help, I can give you mine.

25 A. I have it. Omar Ahmad.

1 Q. Okay. When Omar Ahmad announced that this was a meeting
2 of the Palestine Committee, was Shukri Baker in the room?

3 A. Yes.

4 Q. How do you know that?

5 A. Because he spoke like within a minute before Omar Ahmad
6 announced this.

7 MR. JONAS: If we can turn to page 3 of the excerpt.
8 If we can get that on the screen, please, Philly meeting 1-E,
9 page 3.

10 Q. (BY MR. JONAS) Do you see that, Agent Burns?

11 A. I do.

12 Q. Okay. Do we see Shukri Baker speaking?

13 A. Yes, we do.

14 Q. Does this area, this excerpt identify what his role is to
15 be in this conference?

16 A. It does. It indicates that -- would you like me to read
17 it?

18 Q. Sure. Go ahead.

19 A. Omar Ahmad says, "The third session, who has papers?
20 Gawad. The third session, who has papers for it? From the
21 beginning, the first session we have Sheik Sharif and brother
22 Abdel Salam, brother Gawad, and Aboul Hasan, Abdel Halim.
23 Anyone else? Did you write them down? The second session,
24 guys, stay with me so that we could finish. The second
25 session we have Osama, Mo'een, and Shukri Abu Baker. And it

1 will be about charity work. Anyone else? The third session
2 will be about political media and popular activism and PR. We
3 have Ghassan, Saleh, Gawad, and Abdel Rahman, Nihad and Akram.
4 Anyone else? Who is going to be the moderator of the 1st
5 session?"

6 And he goes on, and down farther where Ghassan is
7 speaking he says, "Regarding the 1st session, Shukri should be
8 the moderator."

9 Q. By the way, Agent Burns, does each transcript, for either
10 the full transcript or the excerpted transcript, identify the
11 speakers for that particular transcript?

12 A. Yes. On the very first page of each transcript.

13 Q. So where we have initials on the attributions as to who
14 is speaking, all one has to do is go to the first page of the
15 transcript and they can see who that person is. Is that
16 correct?

17 A. That is correct. And with each transcript, different
18 speakers will probably be identified. So on one transcript
19 you may have five or six people, and on another transcript you
20 may have ten people.

21 Q. And did Shukri Baker in fact moderate any sessions?

22 A. He did.

23 Q. Okay. Agent Burns, did Shukri Baker the Defendant talk
24 about presenting a cover for this Philadelphia meeting in case
25 anyone asks?

1 A. He did.

2 MR. JONAS: If we can turn to Philly Meeting No. 3.

3 Q. (BY MR. JONAS) Before I ask you about that one, did they
4 jump around in subject matter during their sessions?

5 A. Yes. As you can see, the conference was organized into
6 sessions according to topic, but they did venture off of topic
7 on several occasions, and then they would try to get back on
8 topic. But they do venture around.

9 Q. Okay. So we may venture around ourselves, then?

10 A. Yes, we will be doing that.

11 Q. Okay.

12 MR. JONAS: If we can turn to Philly Meeting No. 3,
13 page 3. This is the excerpted one, Philly Meeting No. 3-E.

14 THE WITNESS: I have it.

15 Q. (BY MR. JONAS) Do can you have it before you?

16 A. I do.

17 Q. This is a short one so we will just read it. Do you see
18 the second from the top segment? Can you read what Shukri
19 Baker says about the meeting?

20 A. "My brothers, this talk is to be continued, God's
21 willing. There are remarks now. Please don't mention the
22 name Samah in an explicit manner. We agree on saying it as
23 sister Samah. We will talk about her honor, and the session
24 is -- the session here is a joint workshop between the Holy
25 Land Foundation and the IAP. This is the official form. I

1 mean, please in case some inquired."

2 Q. Agent Burns, going back to your Philly Meeting Summary
3 Chart, under organizations you list several organizations--PC,
4 HLF, IAP, depending upon the individual. Can you explain
5 that, please?

6 A. Yes. Individuals who are affiliated with various
7 organizations, according to the evidence that has already been
8 presented, their affiliations are noted in that column. For
9 example, with the Defendant Shukri Abu Baker we have seen
10 documents that we have are introduced here showing that he was
11 a member of the Palestinian Committee and the HLF, and we have
12 seen his deposition testimony where he admitted being a member
13 of the IAP's advisory board. Therefore, all three
14 organizations are noted beside his name.

15 Q. Okay. And that continues throughout this chart?

16 A. That is correct.

17 Q. Okay. So Shukri Baker, what you just read, says, "In
18 case someone inquired, the session here is a joint session
19 between the Holy Land Foundation and the IAP." Is everyone
20 who attended, pursuant to your summary, a member of the HLF or
21 part of the HLF or the IAP?

22 A. No.

23 Q. Okay. He uses -- He uses a term sister Samah. Does he
24 talk about that in his declaration what sister Samah meant in
25 this Philly conference?

1 A. In his sworn statement he does, yes.

2 MR. JONAS: If we can pull up Baker Declaration,
3 page 4, please.

4 Q. (BY MR. JONAS) What does Shukri Baker say about the term
5 Samah?

6 A. He says, "The use of the word Samah was a whimsical and
7 ironic" --

8 MS. HOLLANDER: Would you have her read it from the
9 beginning?

10 Q. (BY MR. JONAS) There is a word at the top right.

11 A. I am sorry. "Some people at the meeting spoke of Hamas
12 openly, and there was no reason for them not to, since Hamas'
13 role in Palestine was a natural subject of discussion, and
14 Hamas was not a banned organization at that time. The use of
15 the word Samah was a whimsical and ironic play on words.
16 Samah means forgiveness in Arabic, and in my opinion those who
17 used the term were making ironic fun of Hamas, not adopting a
18 secret term to disguise their references to the organization."

19 Q. So, Agent Burns, in what we just read a moment ago when
20 he says sister Samah, according to this declaration he is
21 meaning sister forgiveness?

22 A. If you believe what he says in his declaration.

23 Q. Do you know what Samah is backwards?

24 A. Yes.

25 MR. JONAS: Your Honor, can I just use the elmo,

1 please?

2 Q. (BY MR. JONAS) Do you see what I wrote?

3 A. I do.

4 Q. What did I write? What word that is?

5 A. Reading left to right it is Samah.

6 Q. Okay. What is Samah backwards?

7 A. Hamas, which interestingly in reading Arabic you read
8 from the right to the left.

9 MR. JONAS: Go back to the screen, please.

10 Q. (BY MR. JONAS) What meaning did the word Samah have in
11 the conference?

12 A. It was a code word for Hamas.

13 Q. And is that identified in the conference?

14 A. Yes, it is.

15 MR. JONAS: Can you turn to Philly meeting 4-E? We
16 are going to play segment A, please.

17 (Whereupon, Philly Meeting No. 4, Segment A was
18 played, while questions were propounded.)

19 Q. (BY MR. JONAS) Agent Burns, have we seen any documents
20 during the course of your testimony to indicate who was going
21 to commit jihad to liberate Palestine?

22 A. Yes.

23 Q. What document?

24 A. Hamas, according to the Hamas charter.

25 Q. The first thing, or one of the first things we saw on

1 that one, GA, which is who?

2 A. Gawad.

3 Q. Gawad says, " Hamas...the Samah Movement. I mean Samah."

4 Did Shukri Baker express any concern over using the word Hamas
5 during the course of this conference?

6 A. Yes, he did.

7 MR. JONAS: If we go back to Philly Meeting No. 3,
8 page 3. This is a short one. The third segment.

9 Q. (BY MR. JONAS) Can you read that segment Agent Burns?

10 A. Yes. Let me find out who AU is. Aboul Osama is
11 speaking. He says, "As far as the police is concerned, there
12 is a good reaction to it. Expectations are that -- It depends
13 on the media if we managed to reach the people."

14 An unknown male says, "What about people's opinions?"

15 "That depends."

16 Unknown male asks, "Is this against Hamas?"

17 Shukri Abu Baker says, "Didn't we say not to mention that
18 term?"

19 Unknown male then says, "Is it against the Movement?"

20 Q. Agent Burns, have we seen the term Movement used in this
21 case?

22 A. Yes, we have.

23 Q. What does that mean?

24 A. It is short for the Islamic Resistance Movement, which is
25 Hamas.

1 Q. Is the Philadelphia meeting the only time you have seen
2 the word Samah used?

3 A. No.

4 Q. When else have you seen it?

5 A. Phone calls.

6 Q. Do you have before you Baker Wiretap No. 4?

7 A. I do.

8 Q. And who are the participants on that call?

9 A. Shukri Abu Baker the Defendant, and Abdel Haleem Ashqar.

10 Q. What is the date of the call?

11 A. January 11th, 1996.

12 MR. JONAS: Your Honor, at this time I would offer
13 into evidence Baker Wiretap No. 4 and 4-A.

14 THE COURT: Admitted.

15 MR. JONAS: If we can play that, please.

16 (Whereupon, Baker Wiretap No. 4, 4-A was played,
17 while questions were propounded.)

18 Q. (BY MR. JONAS) Agent Burns, do you see where Shukri
19 Baker says, "visited their aunt's house"?

20 A. I do.

21 Q. Have you seen that term used before?

22 A. I have.

23 Q. Where?

24 A. I have seen it in some of the evidence here; none that we
25 have discussed yet.

1 Q. Without giving your understanding of it, is it a word
2 that -- In the context that you have seen it, not just in this
3 call, but other contexts, is that a code word?

4 A. It is a code word.

5 Q. Okay. Agent Burns, do you see where it says, "he claims
6 a relation to her, this Hajja Samah"?

7 A. I do.

8 Q. Using the definition as applied in Baker's declaration,
9 the sworn statement, would that mean Hajja forgiveness?

10 A. If you look at his statement, but it makes no sense in
11 this context.

12 Q. Have you seen the term Hajja before?

13 A. Yes.

14 Q. Do you know what that means?

15 A. It can be translated as sister. It is more of a
16 respected female, but it can be translated as sister.

17 MS. CADEDDU: I object to her opining about what
18 things mean in Arabic. She is not an expert or translator.
19 She doesn't speak Arabic.

20 THE COURT: Overrule that objection. She may
21 testify to her understanding. Go ahead.

22 Q. (BY MR. JONAS) And is sister Samah the term that we have
23 seen used in the Philadelphia meeting?

24 A. It is.

25 Q. Agent Burns, do you see the term "old man"?

1 A. I do.

2 Q. Have you seen that term used before?

3 A. I have seen that term used in the context of this issue
4 and this evidence to mean Yasser Arafat.

5 Q. Agent Burns, have you seen the use of the term Samah in
6 other calls?

7 A. Yes.

8 Q. We will save them for later.

9 A. Okay.

10 Q. All right. You testified that at the time of the
11 Philadelphia meeting the Oslo Accords had just come out.
12 Correct?

13 A. That is correct.

14 Q. Per the Hamas charter, what was Hamas' position on the
15 Oslo Accords?

16 A. Well, according to the Hamas charter they were opposed to
17 any type of peaceful compromise with the Israelis. The
18 charter predated the Oslo Accords, the signing of the Oslo
19 Accords.

20 Q. Did the participants in the Philadelphia meeting discuss
21 moving in the same direction as Hamas on this issue?

22 A. They did.

23 MR. JONAS: If we can play Philly Meeting No. 2-E,
24 Segment A, please.

25 (Whereupon, Philly Meeting No. 2-E, Segment A was

1 played, while questions were propounded.)

2 Q. (BY MR. JONAS) Agent Burns, what is the Fund?

3 A. That is the Holy Land Foundation.

4 Q. Agent Burns, do you see where it says, "The programs or
5 the organizations overall should be in complete harmony with
6 the general directions of the Movement"? What is the
7 Movement?

8 A. The Islamic Resistance Movement, Hamas.

9 Q. Who is Abou Ibrahim?

10 A. The Defendant Mohammad El-Mezain.

11 Q. Agent Burns, the individual I believe was Gawad who was
12 speaking, talked about moving in directions. They talked
13 about the Movement being Hamas. Did Defendant Shukri Baker
14 also talk about moving in particular directions?

15 A. He did.

16 MR. JONAS: Okay. If you will turn to Philly
17 Meeting No. 6-E. If we can play Segment A, please.

18 (Whereupon, Philly Meeting No. 6-E, Segment A was
19 played, while questions were propounded.)

20 Q. (BY MR. JONAS) Who is speaking here?

21 A. This is the Defendant Shukri Abu Baker.

22 Q. Okay. Agent Burns, do you see where Shukri Baker says,
23 "We used to have an approach which probably had a glaring
24 color, I mean, the jihadist [address], and this and that,
25 focus on activism even through our lectures, conferences and

1 seminars"?

2 You said you viewed videotapes, which we have seen some,
3 and I assume we will see more.

4 A. Yes.

5 Q. In those videotapes, did many of them predate the
6 Philadelphia conference?

7 A. They do.

8 Q. The ones that predate Philadelphia, are they of the same
9 nature of the ones we saw already talking about Hamas, Hamas
10 symbols on the screen, et cetera?

11 A. The ones that predate the Philadelphia meeting, yes.

12 Q. The ones that postdate Philadelphia, does the nature of
13 them change?

14 A. Yes. They are very toned down.

15 Q. Did you hear the Defendant Shukri Baker use the term
16 "derailment"?

17 A. Yes.

18 Q. Used it a few times. Is that correct?

19 A. That is correct.

20 Q. Did any of the other participants discuss derailment?

21 A. Yes.

22 MR. JONAS: If we can turn to Philly Meeting No.
23 10-E, Segment D.

24 One moment, Your Honor.

25 THE COURT: Yes.

1 MR. JONAS: Your Honor, we are about to play about
2 four segments in a row, if you are ready to take a break.

3 THE COURT: This is a good time to break? Let's
4 take a 20-minute break. Let's be back at 20 till.

5 (Whereupon, the jury left the courtroom.)

6 THE COURT: All right. We will be in recess, 20
7 till.

8 (Brief Recess.)

9 THE COURT: All right.

10 Mr. Jonas?

11 Q. (BY MR. JONAS) Agent Burns, before the break we had
12 played a statement where the Defendant Shukri Baker used the
13 term derailment a few times. And I believe I asked you, was
14 the term derailment used which other participants in this
15 Philadelphia meeting?

16 A. Yes, it was.

17 Q. What was the context?

18 A. They were discussing how to derail the Oslo Peace
19 Accords.

20 MR. JONAS: If we can play Philly Meeting No. 10,
21 Segment D.

22 (Whereupon, Philly Meeting No. 10, Segment D, E, F,
23 and K was played, while questions were propounded.)

24 Q. (BY MR. JONAS) Agent Burns, in the top right hand side
25 it says D-E-R-A on the screen. What word is that in your

1 transcript?

2 A. That would be the word derail.

3 Q. Cut off here?

4 A. Apparently it is off center a little bit.

5 Q. Okay. Who is AS that is doing the speaking?

6 A. I will confirm from the front page. That is Abdel Haleem
7 Ashqar.

8 Q. Ashqar. Okay.

9 Agent Burns, did the Defendant Shukri Abu Baker talk
10 about his position on peace agreements in his declaration?

11 A. Yes.

12 Q. If we can look at Baker declaration, page 2 paragraph 7.

13 MR. JONAS: Put that on the screen, please.

14 Q. (BY MR. JONAS) What does Shukri Baker say regarding his
15 support for peace?

16 A. He says "Neither I, nor to my knowledge any of the other
17 founders of this charity, have had any connection whatever to
18 Hamas, or to any terrorist groups or to terrorism. I do not
19 believe that suicide bombing is countenanced by the Islamic
20 religion. I have always opposed radicalism. I have always
21 been for dialogue and for peace, and I am firm in these
22 convictions. I am confident that the other founders of the
23 Holy Land Foundation feel the same way. Our objective was and
24 has always been simply to alleviate suffering in Palestine and
25 elsewhere."

1 Q. Does he talk about derailing the peace accords in his
2 declaration?

3 A. No, he does not.

4 MS. HOLLANDER: Your Honor, I would like to voice an
5 objection. The Oslo Accords were not peace accords, and the
6 Government keeps using the term peace accord. The Oslo Accord
7 was the Oslo Accord. It was not a peace agreement.

8 THE COURT: You may cross examine Agent Burns on
9 that when your turn comes, counsel.

10 Go ahead.

11 Q. (BY MR. JONAS) During back to the Philadelphia meeting,
12 did the Defendant Shukri Abu Baker discuss the support that
13 the organizations must give to Hamas?

14 A. Yes.

15 MR. JONAS: If we can go to Philly Meeting No. 12,
16 Segment A, please, from the excerpt.

17 (Whereupon, Philly Meeting No. 12, Segment A was
18 played, while questions were propounded.)

19 Q. (BY MR. JONAS) Again, Agent Burns, what is the Movement?

20 A. That is the Islamic Resistance Movement, Hamas.

21 Q. Agent Burns, how does Shukri Baker refer to what is going
22 on with the Oslo Accords in this attribution right here?

23 A. In this attribution he refers to the Oslo Accords as the
24 peace project.

25 Q. Agent Burns, based upon your review of the Elbarasse

1 records, which are in evidence here, was there one of the
2 organizations of the Palestine Committee that functioned as a
3 think tank?

4 A. The United Association for Studies and Research was what
5 its title said, a research center, which would be a think
6 tank.

7 MR. JONAS: If we can play Segment B of Philly
8 Meeting No. 12-E.

9 (Whereupon, Philly Meeting No. 12-E, Segment B was
10 played while questions were propounded.)

11 Q. (BY MR. JONAS) Agent Burns, who is speaking here?

12 A. This is Shukri Abu Baker.

13 Q. Okay. Agent Burns, did the participants in the
14 Philadelphia meeting ever discuss what they can and cannot
15 officially say in regard to their positions?

16 A. Yes.

17 MR. JONAS: If we can turn to Philly Meeting No. 5
18 and play Segment F.

19 (Whereupon, Philly Meeting No. 5, Segment F was
20 played, while questions were propounded.)

21 Q. (BY MR. JONAS) Agent Burns, who is speaking?

22 A. This is Gawad.

23 Q. On here it says GA, on the transcript, GA. Is Gawad on
24 the Philadelphia meeting list of people who were there?

25 A. Yes. It is spelled with a J. Here they use the G and

1 the J interchangeably on his name. So Gawad is the same as
2 Jawad.

3 Q. Did any of the participants in the Philadelphia meeting
4 discuss how they would go about supporting the resistance?

5 A. They did.

6 MR. JONAS: If we can play Segment G of Philly
7 Meeting No. 5.

8 (Whereupon, Philly Meeting No. 5, Segment G was
9 played, while questions were propounded.)

10 Q. (BY MR. JONAS) Agent Burns, where the Defendant Shukri
11 Abu Baker says, "You Virginia guys got us in trouble," were
12 there people from Virginia who attended this meeting?

13 A. Yes.

14 Q. Who?

15 A. One of them was Muin Shabib was in Virginia at that time.

16 Q. How about Elbarasse?

17 A. He was as well.

18 Q. Did any of the participants, in particular the Defendant
19 Shukri Abu Baker, express any concern about Hamas being
20 labeled as a terrorist organization?

21 A. They did.

22 MR. JONAS: If we can play Philly No. 5, Segment H.
23 (Whereupon, Philly Meeting No. 5, Segment H was
24 played, while questions were propounded.)

25 Q. (BY MR. JONAS) Agent Burns, did you see where it says Al

1 Zatounia?

2 A. I do.

3 Q. Have we seen Al Zatounia referenced in the Elbarasse
4 records?

5 A. I believe it was referenced in one of the documents as
6 one of the periodicals.

7 Q. Periodicals published by whom?

8 A. The IAP.

9 MR. JONAS: Play the next segment, Philly No. 5,
10 Segment I.

11 (Whereupon, Philly Meeting No. 5, Segment I was
12 played, while questions were propounded.)

13 Q. (BY MR. JONAS) Agent Burns, you see where Shukri Baker
14 -- Is he the one speaking?

15 A. He is.

16 Q. He talks about "Our brothers in the occupied territories
17 will pretend to go along with the self-rule, and none of their
18 societies will be shut down." During the course of your
19 testimony have we talked about any societies that belong to
20 Hammas?

21 A. The Islamic Center of Gaza would be one.

22 Q. That was the one that was founded by Sheikh Yassin?

23 A. That is correct. That the HLF gave money to in the early
24 years.

25 Q. Agent Burns, do you see where Shukri Baker uses the word

1 Samah again?

2 A. I do.

3 Q. And under his definition would that say, then, "America
4 will classify forgiveness as a terrorist organization," if you
5 used the definition he provided in his declaration?

6 A. If you use the definition he provided in his sworn
7 declaration, in this context it makes no sense.

8 Q. Agent Burns, are you familiar with the al-Aqsa
9 educational that is in quotes there?

10 A. I am.

11 Q. Is that an entity we are going to talk about in a little
12 while?

13 A. That is an entity that we actually spoke about on
14 Thursday, Abdel Haleem Ashqar's educational fund.

15 Q. Ashqar is again who?

16 A. A member of the Palestine Committee.

17 Q. He was a participant in the Philadelphia meeting?

18 A. That is correct.

19 MR. JONAS: If we can play from Philly Meeting No.
20 5, Section J.

21 (Whereupon, Philly Meeting No. 5, Section J was
22 played, while questions were propounded.)

23 Q. (BY MR. JONAS) Agent Burns, at the time of the
24 Philadelphia meeting in 1993, had Hamas been officially
25 designated as a terrorist organization by the United States?

1 A. No. Actually the mechanism for designating an
2 organization as a terrorist did not exist at the time of this
3 conference.

4 Q. Are you aware if the United States in any way recognized
5 Hamas as a terrorist organization at around this time?

6 A. After the Oslo Accords, the U.S. State Department came
7 out and named them as a terrorist organization, but it did not
8 have the same effect as what an official designation would
9 later on.

10 Q. What was that document that it came out in?

11 A. Generally they print these things in what is called --
12 They have a pamphlet called The Patterns of Global Terrorism.

13 MR. JONAS: Finally, if we can turn to Philly
14 Meeting No. 6 and play segment D.

15 (Whereupon, Philly Meeting NO. 6, Segment D was
16 played, while questions were propounded.)

17 Q. (BY MR. JONAS) Agent Burns, who is speaking now?

18 A. This is the Defendant Shukri Abu Baker.

19 Q. Okay. Agent Burns, did the participants discuss what
20 they can and cannot say to America?

21 A. They did.

22 MR. JONAS: If we can play Philly Meeting No. 6,
23 segment E.

24 (Whereupon, Philly Meeting No. 6, Segment E was
25 played, while questions were propounded.)

1 Q. (BY MR. JONAS) Agent Burns, who is speaking now?

2 A. This speaker is an unidentified male.

3 Q. Agent Burns, are you familiar with what is termed the
4 1948 territories?

5 A. Yes.

6 Q. What does that mean? What is your understanding of what
7 that means?

8 A. That means Israel as it exists. Israel was established
9 in 1948, so if you are requesting the 1948 territories you
10 want the land that is now considered Israel.

11 Q. Agent Burns, what document have we seen that discusses
12 demanding the 1948 territories?

13 A. The Hamas charter.

14 Q. Are there other times when they discuss what they can and
15 cannot say to the Americans?

16 A. Yes.

17 MR. JONAS: If we can play Philly Meeting No. 7,
18 Segment A.

19 (Whereupon, Philly Meeting No. 7, Segment A was
20 played, while questions were propounded.)

21 Q. (BY MR. JONAS) Who is speaking here?

22 A. This is an unknown male.

23 Q. And this unknown male refers to Shukri. Was there any
24 other Shukri at the Philadelphia meeting besides the Defendant
25 Shukri Baker?

1 A. No.

2 Q. Agent Burns, you see where it says, "You can try to
3 convince people from behind saying tone it down a little"?

4 A. I do.

5 Q. Is that consistent with what you testified earlier about
6 the videotapes of the conferences, toning it down post
7 Philadelphia meeting?

8 A. Yes.

9 Q. Agent Burns, do you see -- Who is OM that is speaking?

10 A. That is Omar Ahmad.

11 Q. Do you see where he references Sheik Omar Abdel Rahman?

12 A. I do.

13 Q. Do you know who that individual is?

14 A. Yes.

15 Q. Who is that?

16 A. He is one of the individuals who is currently
17 incarcerated for his role in the plotting of the first World
18 Trade Center bombing.

19 Q. Which occurred in the early '90s?

20 A. In 1993.

21 Q. He is not a member of the Palestine Committee, is he?

22 A. No, he is not.

23 Q. Was he part of this meeting at all?

24 A. No, he was not.

25 Q. Other than a reference to him here, does he have any

1 involvement to the Defendants, based upon the evidence that
2 you have seen?

3 A. Not based on the evidence that we have discussed, no.

4 Q. (BY MR. JONAS) Did the Defendant Shukri Abu Baker
5 discuss deception?

6 A. He did.

7 Q. If we can, staying with Philly Meeting No. 7, do you have
8 page 6 before you?

9 A. I do.

10 Q. We will put it on the screen and read this one. It is
11 fairly short. I believe it is page 5, the second segment
12 there. Who is speaking?

13 A. That is the Defendant Shukri Abu Baker.

14 Q. Okay. Can you read this segment?

15 A. He says, "I swear by your God that war is deception. War
16 is deception. We are fighting our enemy with a kind heart and
17 we never thought of deceiving it. War is deception. Deceive,
18 camouflage, pretend that you're leaving while you're walking
19 that way. Or do we have to be -- Deceive your enemy."

20 Omar Ahmad says, "This is like one who plays basketball.
21 He makes a player believe that he is doing this while he does
22 something else. I agree with you. Like they say, politics is
23 a completion of war."

24 Shukri Abu Baker says, "Yes, politics, like war, is a
25 deception."

1 Q. Agent Burns, in 1993 when the Philadelphia meeting took
2 place, what was the Holy Land Foundation supposed to be?

3 A. A Muslim charity.

4 Q. Did this discussion of war being deception come up again?

5 A. It did.

6 MR. JONAS: If we can turn to Philly Meeting No.
7 12-E. If we can play Segment E of Philly meeting 12.

8 (Whereupon, Philly Meeting No. 12-E, Segment E was
9 played, while questions were propounded.)

10 Q. (BY MR. JONAS) Agent Burns, who is speaking here?

11 A. I believe it was -- I need to look at the beginning of
12 it, or if you can tell me what page it is on in the
13 transcript.

14 Q. On the excerpt it is page 6.

15 A. Unknown male.

16 Q. Okay. You see he says, "The first goal is to continue to
17 support the Palestinian cause and defending the Movement's
18 positions," what is the Movement?

19 A. The Islamic Resistance Movement, Hamas.

20 Q. Agent Burns, do you see where it says, "Working to make
21 the Islamic Association for Palestine the main source of
22 information which represents the movement's positions," who
23 published the Hamas charter in the United States?

24 A. The IAP.

25 Q. Is that the Islamic Association for Palestine?

1 A. Yes, it is.

2 Q. Agent Burns, who is SH that says "It should lie"?

3 A. That is the Defendant Shukri Abu Baker.

4 Q. Agent Burns, did you see where it said, "Learn from your
5 masters in the Fund"? What is the Fund?

6 A. The Holy Land Foundation.

7 Q. Agent Burns, do you have the last page of Philly segment
8 12-E before you? There is just one line there that is the
9 last segment?

10 A. I do.

11 MR. JONAS: If we can put that last page, page 8
12 open the screen, please.

13 Q. (BY MR. JONAS) Agent Burns, just one line. What does
14 Shukri Baker say, the last line in the excerpted transcript?

15 A. He says, "Your mother Samah is the mother of democracy."

16 Q. Did Shukri Baker the Defendant say anything about what he
17 can and cannot say to America about his relationship to Hamas?

18 A. He did.

19 MR. JONAS: If we turn to Philly Meeting No. 8, in
20 the excerpts if you can turn to page 3. Can we get page 3 on
21 the screen, please?

22 Q. (BY MR. JONAS) Agent Burns, starting with the top where
23 it says UM, "I can repeat the text," can you read the rest of
24 this segment please?

25 A. "I can repeat the text if that is going to solve the

1 problem. We can say attacking the -- the credibility of the
2 representation of the Organization, the Organization's right
3 to sign an accord on behalf of the Palestinian people."

4 Q. Let me pause you for a moment. Which organization signed
5 the Oslo Accords on behalf of the Palestinian people?

6 A. The Palestine Liberation Organization.

7 Q. Okay. Continue.

8 A. Gawad says, "No, he didn't sign as the Organization. He
9 signed as Abu Ammar. He didn't sign as the Organization."

10 Unknown male says, "No, he signed the Palestinian people.
11 What's his name? Abu Abbas signed as the Palestinian
12 delegation."

13 Gawad said, "But not even one major democratic
14 Palestinian organization until now has --"

15 Unknown male says, "This is the point. This is the
16 point."

17 Shukri Abu Baker said, "This is what they understand --
18 Abu, Abu. This is what they understand. Currently Abu Ammar
19 is the chairman of the PLO. Our brothers, we cannot use the
20 same poetic Arabic style when addressing the American
21 mentality. Our brother, the American will not understand it.
22 Please allow me. They will tell you, 'If he doesn't represent
23 you, why the hell don't you get rid of him?' He will tell
24 you, 'If he doesn't represent you, who represents the
25 Palestinian people?'"

1 Unknown male says, "We should drop the Arafat issue now.
2 We're talking about the Organization."

3 Shukri Abu Baker says, "These are very critical
4 questions. We're replying to the question. It is very
5 critical."

6 Unknown male, "If he is democratic."

7 Shukri Abu Baker says, "I cannot say to him that I'm
8 Hamas."

9 MR. JONAS: If we play the next segment of Philly
10 Meeting No. 8, which is Segment B.

11 (Whereupon, Philly Meeting No. 8, Segment B was
12 played, while questions were propounded.)

13 Q. (BY MR. JONAS) Agent Burns, do you see where it says, "I
14 mean, in the same style as Samah's"?

15 A. Yes.

16 Q. Would that mean "in the same style of forgiveness"?

17 A. No, it doesn't.

18 Q. Who is speaking right now?

19 A. Shukri Abu Baker is.

20 Q. And Omar Yehia is who?

21 A. That is the same as Omar Ahmad the IAP member/Palestinian
22 Committee member who has been speaking quite frequently
23 throughout this.

24 Q. Shukri Baker says, "You can go meet a Congressman in your
25 name, in Omar Yehia's name, in the name of the Association's

1 present, and tell him [UI] doesn't represent us. Mr. Ahmad
2 Yassin represents us." Who is Ahmed Yassin?

3 A. The Hamas founder, the former spiritual leader that is on
4 your board there in the middle on the top.

5 Q. The top, Sheikh Ahmed Yassin?

6 A. That is correct.

7 MR. JONAS: If we can stay with Philly Meeting No.
8 8, page 5 of the Philly meeting 8-E, the excerpted portion,
9 the top half, please.

10 Q. (BY MR. JONAS) Agent Burns, if you can read what Shukri
11 Baker says at this point in the meeting?

12 A. He says, "The point you presented which is -- which is
13 withdrawing, attacking his credibility as a representative and
14 a leader of the Palestinian people. But I tell you that we
15 don't want the American front to become a front for direct
16 conflict. These things will put us in direct conflict, not
17 only with the Palestinians, even with the official government
18 circles. What is our benefit? What is our interest? As
19 Palestinian action organizations in America, what is our
20 benefit in creating more enemies than necessary? What is the
21 interest that -- Are you going to win the Palestinian cause if
22 this guy who works at McDonald's, the worker who works there
23 for \$4 an hour understands whether Abu Ammar represents us or
24 not, or the Congressman? If you explain the situation to him
25 that he is -- and doesn't represent the Palestinian people, is

1 he going to tell you, 'Yes, by God, you convinced me.'
2 Despite that everything goes as planned. The point is that we
3 are not going to expose ourselves to another wave and be
4 anti-establishment -- anti-establishment. Okay? Because for
5 the American organizations, if you're against peace you're a
6 terrorist. When you start attacking Abu Ammar, his
7 leadership, the people who signed and attended and arranged
8 their affairs with -- such as a Saudi person who attacks the
9 Saud family and say that he is not a ruler, my brother, let
10 him --"

11 Unknown male says, "Okay. Amazing. But brother, please
12 finish."

13 Q. That is fine. Were there any other discussions regarding
14 their presentation or their face to America?

15 A. Yes.

16 Q. Were there several more discussions regarding that topic?

17 A. Yes.

18 Q. In fact, was that the subject matter of this whole
19 conference, this whole meeting?

20 A. Yes.

21 MR. JONAS: Let's look at one more. Philly Meeting
22 No. 10 in the excerpt page 2. Can you get that on the screen,
23 please, the bottom half?

24 Q. (BY MR. JONAS) Agent Burns, are you up to reading one
25 more?

1 A. Okay. Gawad says, "America and the American, in order to
2 convince the people, because everybody is convinced; the
3 Americans are convinced and the Jews. People must -- On the
4 ground they're happy with the flag now, but the flag will last
5 one week, two weeks, or a month. And what is after that? We
6 need bread. This will be -- The propaganda will be spread
7 will affect Hamas. In the meanwhile, are you going to collect
8 a million? Not a million for instance. The media and
9 political support for the Cause in general terms, and to the
10 rights of the Palestinian people specifically will be
11 negatively affected in my opinion. Why? First, the
12 organizations which work on these issues are American and they
13 deal from the -- from America's mentality. A prominent
14 example for that is the occupation. The U.S. government used
15 to call it occupation, and used to reject its measures and
16 reject this and that, and used to call to the implementation
17 of the Geneva agreement. This was the official America, State
18 department and otherwise. It tried to, because all became a
19 United Nations, so you no longer have the right to resist the
20 occupation. All of that will be classified according to the
21 American concept. There is no occupation now. There is an
22 understanding and there are no weapons to be carried because
23 there is no occupation to be fought. There is no more
24 suffering because of the occupation. Suffering now is on the
25 hands of the local government. This will be classified as

1 terrorism according to America. How are you going to do it?
2 How are you going to perform jihad?"

3 Q. Okay. Agent Burns, have we already heard in some of the
4 calls or some of the segments that we have played or read a
5 discussion for a new organization?

6 A. Yes.

7 Q. Has that discussion -- did that happen several times
8 where they discussed creating a new organization?

9 A. It did.

10 Q. Okay.

11 MR. JONAS: If we can turn to Philly Meeting No. 5,
12 and the excerpt if we can get page 1 on the screen, please.

13 Q. (BY MR. JONAS) Agent Burns, I will give your voice a
14 break and I will just read this one.

15 Unknown male 2 says, "In my opinion, we must form a new
16 organization for activism which will be neutral because we are
17 placed in a corner. We are placed in a corner. It is known
18 who we are. We are marked. And I believe that there should
19 be a new neutral organization which works on both sides so
20 that -- because this state is coming no matter what, and this
21 is a new existing order."

22 Agent Burns, were there any other discussions about them
23 being marked?

24 A. Yes.

25 MR. JONAS: If we can turn to Philly Meeting No. 13

1 in the excerpt, and if we can play segments F and G, please.

2 (Whereupon, Philly Meeting No. 13-E, Segment F and G
3 were played, while questions were propounded.)

4 Q. (BY MR. JONAS) Do you see where it says ISNA and ICNA?
5 Have we seen those names before?

6 A. Yes.

7 Q. Where?

8 A. ISNA was on several of the documents we have already
9 discussed as one of the Muslim Brotherhood organizations.

10 MR. JONAS: I believe we need to approach for the
11 next question I will ask Agent Burns.

12 THE COURT: Sure. Come up.

13 (The following was had outside the hearing of the
14 jury.)

15 MR. JONAS: Your Honor, we have played two segments
16 so far where participants discussed being marked, and in fact
17 the last one someone said the Holy Land Foundation has been
18 marked. I think in the context it is clear that they are
19 concerned about being marked as Hamas, and they discuss
20 creating a new neutral organization.

21 At this point I was going to ask Agent Burns if she came
22 across any document within the search warrant material that
23 would show how they were marked, and that is the New York
24 Times article that was found at the Holy Land Foundation,
25 which I have right here.

1 MS. MORENO: If I can get my notes, Your Honor?

2 THE COURT: Go ahead.

3 MR. JONAS: Your Honor, we may have a resolution.

4 THE COURT: Okay.

5 MR. JONAS: Mr. Cline can approach. In the last
6 trial I believe that we had a stipulation that I don't
7 remember the exact terminology.

8 MR. CLINE: Mr. Jacks just reminded me of this. We
9 had a stipulation, and I am paraphrasing, but the basic idea
10 was that Holy Land at that point had been publicly associated
11 with Hamas in some fashion. I forget exactly how we worded
12 it; publicly accused or named or something like that. And
13 that was how we dealt with this issue in the last trial. I
14 had forgotten about that.

15 THE COURT: By a stipulation?

16 MR. CLINE: By a stipulation.

17 THE COURT: That had been --

18 MR. CLINE: That it had been publicly identified,
19 accused, there was some term like that. We can --

20 THE COURT: Come up with something or find it?

21 MR. JONAS: That is fine with me. It is just that I
22 am at the point now where I think it would be relevant. So I
23 don't know if you want to give us five minutes to work out the
24 language.

25 THE COURT: Sure. We can do that.

1 MS. MORENO: Because I have all my wonderful
2 objections lined up, Judge, that are devastating.

3 MR. CLINE: Let me consult with my colleagues on the
4 Defense side.

5 THE COURT: Sure. Do you want the jury out for a
6 few minutes?

7 MR. CLINE: That might be good.

8 (The following was had in the presence and hearing
9 of the jury.)

10 THE COURT: Members of the jury, if you want to step
11 back into the jury room for just a few minutes. The lawyers
12 are trying to work out something, and see if we can work
13 something out.

14 (Whereupon, the jury left the courtroom.)

15 THE COURT: Go ahead and be seated.

16 Do you remember the last time, the stipulation -- there
17 was about three or four of these newspaper articles. Did it
18 cover all of them, or just this particular one.

19 MR. JONAS: I believe just this particular one, Your
20 Honor.

21 MS. HOLLANDER: It just covered this one. I think
22 we have all the stipulations, but they are -- I don't have
23 them up here.

24 MR. JONAS: Your Honor, Mr. Cline is going to write
25 out the language.

1 THE COURT: All right.

2 THE COURT: Go ahead and bring the jury in.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: Mr. Jonas?

5 MR. JONAS: Thank you, sir.

6 Q. (BY MR. JONAS) Agent Burns, the last segment we played
7 from Philly Meeting No. 13-E, the unidentified male that was
8 speaking said that the Holy Land Foundation was stamped, or
9 ready as whatever. And the prior segment I read from Philly
10 Meeting No. 5, the unidentified male talked about that "We are
11 placed in a corner. It is known who we are. We are marked."
12 Okay?

13 MR. JONAS: Per stipulation, Your Honor, I would
14 like to read to the jury, upon agreement of the parties, the
15 following:

16 "As of the date of the Philadelphia meeting, the HLF has
17 been publicly named in a newspaper article as being associated
18 with Hamas."

19 THE COURT: Okay. And that stipulation the parties
20 have agreed to, so you can accept that as an established fact
21 without hearing any additional evidence.

22 I guess for the record we should get -- Mr. Cline, that
23 is language you have agreed to. Correct?

24 MR. CLINE: Yes, Your Honor.

25 THE COURT: On behalf of all counsel and all the

1 parties?

2 MR. CLINE: Yes, Your Honor.

3 MR. JONAS: Thank you, sir.

4 Q. (BY MR. JONAS) Agent Burns, that Philly Meeting No. 5
5 segment I read, as well as some other segments we read and
6 played, discussed a new organization being created. A neutral
7 organization is a term that was used. Do you have before You
8 Elbarasse Search 19?

9 A. I do.

10 Q. Okay. And what is the date of that document?

11 A. July 30th, 1994.

12 Q. And was this document created -- Is that after the Philly
13 Meeting in 1994?

14 A. It is.

15 MR. JONAS: Your Honor, at this time I would offer
16 into evidence Elbarasse Search No. 19.

17 THE COURT: That is admitted.

18 MR. JONAS: If we could put page 1 of that on the
19 screen, first.

20 Q. (BY MR. JONAS) Agent Burns, what language is this
21 document in?

22 A. It is primarily in Arabic, but there are a few words
23 there that were in English in the original document.

24 Q. Starting with the English words on this first page that
25 you see, what are those organizations? What is that?

1 A. The UASR that we have discussed at length, the HLF, the
2 IAP, and a new organization CAIR.

3 Q. Was this page translated?

4 A. It was.

5 Q. The whole document was translated?

6 A. It was.

7 MR. JONAS: If we can go to page 6.

8 Q. (BY MR. JONAS) What is the title of this document?

9 A. "Meeting agenda for the Palestine Committee, July 30th,
10 1994."

11 Q. And if you go to No. 3, can you read what it says?

12 A. It says, "Reviewing reports of the working organizations,
13 and it includes:

14 "Reviewing work report of the previous stage.

15 "Financial situation.

16 "Future suggestions to develop work of the following
17 organizations: IAP, HLF, UASR, Coordination, CAIR."

18 Q. Do you know what CAIR stands for?

19 A. Yes.

20 Q. What does it stand for?

21 A. Council on American-Islamic Relations.

22 Q. Prior to the Philadelphia meeting did you see the
23 organization CAIR mentioned in any of the Elbarasse documents?

24 A. It did not exist prior to the Philadelphia meeting.

25 Q. So it came into being after Philadelphia?

1 A. That is correct.

2 Q. Okay. Were there any additional discussions by the
3 participants about how they would portray themselves to
4 America?

5 A. Yes.

6 MR. JONAS: If we turn to Philly Meeting No. 16 and
7 the excerpts, if we can play Segment F and G together, please.

8 (Whereupon, Philly Meeting NO. 16-E, Segment F and G
9 were played, while questions were propounded.)

10 Q. (BY MR. JONAS) Who is speaking here?

11 A. This is the Defendant Shukri Abu Baker.

12 Q. Agent Burns, did you see in that segment where the
13 Defendant Shukri Baker talked about making presentations on
14 human suffering and the rights, the issues he understands, he
15 says?

16 A. Yes.

17 Q. Were there additional discussions making presentations to
18 America on human rights?

19 A. Yes.

20 MR. JONAS: If we can go to Philly Meeting No. 10,
21 Segment G. That is on page 5 of the excerpted portion. If we
22 can put that on the screen, please, the bottom segment.

23 Q. (BY MR. JONAS) What does this unidentified male say,
24 please?

25 A. He says, "The first is to make the agreement fail, and

1 this is a public policy and all of us are opposing it. It is
2 the just the media which exaggerated the issue. Second,
3 finding the alternatives. The first step should be taken
4 advantage of by the brothers in -- how to make the agreement
5 fail. The national rights, human rights, stuff which will be
6 exploited in order to make you look legitimate while you call
7 on the annulment of the agreement. I mean, there should be
8 legitimacy to everything we do so that they won't -- they
9 should always be in -- this is one aspect. The other aspect
10 is working to find the alternatives. Create programs in order
11 to target the agreement."

12 Q. Agent Burns, were there other discussions about
13 exploiting human rights?

14 A. Yes.

15 MR. JONAS: If we can go to Philly Meeting No. 12
16 and play Segment D.

17 (Whereupon, Philly Meeting NO. 12, Segment D was
18 played, while questions were propounded.)

19 Q. (BY MR. JONAS) Agent Burns, did you see where the
20 Defendant Shukri Baker talked about neglecting camps in the
21 past?

22 A. I did.

23 Q. Did he talk -- Were there any other times where he talked
24 about the camps and taking advantage of them?

25 A. Yes.

1 MR. JONAS: If we can turn to Philly Meeting No.
2 14-E for the excerpt, play Segment B, please.

3 (Whereupon, Philly Meeting No. 14-E, Segment B was
4 played, while questions were propounded.)

5 Q. (BY MR. JONAS) Agent Burns, some of the words are cut
6 off on the right. Do you see that on your screen?

7 A. I do.

8 Q. Do you have this particular portion in your transcript in
9 front of you?

10 A. I do. It may take me just a minute to find it. Okay. I
11 have it.

12 Q. Go ahead.

13 A. Beginning with "Stressing the suffering," "Stressing the
14 suffering in the Palestinians' camps in Palestine and outside
15 it. The camps program which is excluded in the agreement
16 process...the suffering still exists, and we could benefit
17 from the suffering in the camps from the angle of approaching
18 the Palestinian cause from this angle at least. Inside
19 Palestine and in all the camps all over the world. The third
20 item is focusing on the humanitarian needs which are not much
21 affected by the political changes to start with. An example
22 is the orphan sponsorship program. It has no relationship
23 with the changes. Okay? The needy or the handicapped child
24 fund, the student fund, anti-poverty projects, these are
25 projects which will remain even if there is a Palestinian

1 state in place. How much more for people without a
2 leadership? The...always negates the religious sentiment at
3 the donors. There is a religious sentiment at the donor. I
4 tell him, 'Come on. You will give you zakat out anyway. Give
5 me your zakat and I will send it to Palestine.' He will give
6 it anyway. It won't make a difference to him. Sacrifices,
7 establishing endowment projects and drinking fountains and
8 carrying out the legitimate will project. It is a long term
9 plan. That's fine. Now, if three or four people wrote their
10 wills, we could get half a million dollars. It is a long
11 term, but it is a legitimate will which he will carry out
12 whether with you or with somebody else, focusing on the
13 importance of supporting the Islamic organizations in the
14 upcoming stage. I will speak about a specific population
15 which is the Islamic population. See, if we don't support the
16 Islamic organizations, other organizations will come to
17 destroy and crush them. The Islamic University, the
18 University, this is a very private address. I cannot place an
19 ad in the newspaper saying, 'Save the Islamic institutions.'
20 Starting a dialogue with the American public to contribute to
21 the new phase of rebuilding in Gaza and Jericho. This is an
22 important issue. What happened happened. Why should I rely
23 on self-rule? No. Come here. I go to the American public
24 and tell him, 'That is excellent. Good. We are going to
25 build Gaza and we are going to build Jericho. I want you to

1 help me.' That is because I will be in a position of
2 competition with the other Palestinian organizations which
3 work with...and which work with the American public. They
4 will now have impetus, strong media, and they will have strong
5 credibility and legitimacy. We will find ourselves competing
6 with the Americans. Why should I portray myself as...saying
7 that I am an Islamist, only an Islamist, and don't
8 want...don't want the Americans. No, I will open a new
9 dialogue with the Americans and benefit from...and let them go
10 to Jericho and Gaza. Yes, it is not wrong. Seven, start a
11 dialogue with the U.S. and international charitable
12 organizations, U.N organizations, and embarking on new joint
13 projects in Palestine. Please note that if there is one
14 advantage of this Palestinian-Israeli agreement to me, it is
15 that your address to the American public about the Palestinian
16 cause will be easier. The psychological barrier between the
17 Americans and the Palestinian people has begun to erode or
18 disappear. I can benefit from this point by...but I cannot
19 approach them through my strict Islamic address. I can't tell
20 him 'I demand 48 borders.' No way. No way on earth. Okay?"

21 Q. Agent Burns, to pause for a moment, what items have we
22 seen that addresses the demanding of 48 borders?

23 A. Again, that was the Hamas charter.

24 Q. Okay. Please continue.

25 A. "No. I approach it through humanitarian suffering,

1 refugees' rights, and issues which the Americans will agree
2 with you on. An example of that is the U.N. organizations and
3 the institutions which give grants, and we could do various
4 projects. Finally, the broad lines which you could call them
5 strategies, one, the...address should steer totally clear from
6 any tension towards the issue of the self-rule. I believe
7 that I as a charity organization should not give an opinion or
8 a political judgment at all. I have no relationship with
9 that. I am not a political institution. I want to...there is
10 a new reality I'm dealing with now. It is not my job to
11 attack the self-rule. This is my view. Amicable relationship
12 must be maintained with all parties inside Palestine. This
13 goes without saying, my brothers. We must not put any
14 factional or partisan influence on the Foundation of America
15 as it is the charitable arm of this or that. No. I say that
16 this is wrong and we must act out of a charitable stand. We
17 must act as an American organization which is registered in
18 America and which cares for the interests of the Palestinian
19 people. It doesn't cater to the interests of a specific
20 party. Our relationship with everyone must be good,
21 regardless."

22 Ghassan Elashi says, "Including the Islamists, of
23 course."

24 And Shukri Abu Baker says, "The Islamists, of course.
25 No, there is no problem, my brother. This is...we gave the

1 Islamists \$100,000 and we gave others \$5,000."

2 Q. I believe on the screen it is slightly different, if you
3 could read it.

4 A. I am sorry. "In the past we gave the Islamists \$100,000
5 and we gave others \$5,000."

6 Q. Agent Burns, is there any other discussion about that
7 last statement, "In the past we gave the Islamists \$100,000
8 and we gave the others \$5,000"? Did anyone else reference
9 back to that?

10 A. Yes.

11 MR. JONAS: If we can go to Philly Meeting No. 13,
12 segment H, and play that, please.

13 Q. (BY MR. JONAS) Before we do that, Agent Burns, who are
14 the Islamists, or what are the Islamists as referenced in this
15 case?

16 A. In this context, the Defendants. That would be people
17 with the Muslim Brotherhood, supporting Hamas, like that.

18 MS. HOLLANDER: Your Honor, I am going to object to
19 her defining the term Islamist. I don't believe she has any
20 expertise to do that.

21 THE COURT: Overruled.

22 Q. (BY MR. JONAS) Who are the others? They say "The
23 Islamists \$100,000 and we gave the others \$5,000."

24 A. Anyone else who is not an Islamist.

25 MR. JONAS: If we can play Segment H of Philly

1 Meeting No. 13.

2 (Whereupon, Philly Meeting No. 13, Segment H was
3 played, while questions were propounded.)

4 Q. (BY MR. JONAS) Agent Burns, did the Holy Land Foundation
5 give \$100,000 to Islamists?

6 A. They gave much more to Islamists.

7 Q. As an example, did they give \$5,000 or some other nominal
8 amount to others?

9 A. They did.

10 Q. Is there a particular of that?

11 A. One good example that I looked at was a donation to the
12 victims of the Oklahoma City bombing.

13 Q. Do you have before you what has been marked as InfoCom
14 Search No. 5?

15 A. I do.

16 Q. What is that item?

17 A. It is a thank-you letter from the Oklahoma City Community
18 Foundation to the Holy Land Foundation.

19 MR. JONAS: Your Honor, at this time I would offer
20 into evidence InfoCom Search No. 5.

21 MS. HOLLANDER: No objection.

22 THE COURT: Admitted.

23 MR. JONAS: If we can put that on the screen,
24 please.

25 Q. (BY MR. JONAS) What does this document state?

1 A. It says -- Do you want me to read it?

2 Q. Sure.

3 A. "On behalf of the citizens of Oklahoma City, Mayor Ronald
4 J. Norick joins me in thanking you for sharing your generosity
5 with the Community Foundation and helping the charitable needs
6 of Oklahoma City. The Oklahoma City Community Foundation
7 thanks you for your gift of \$5,000. It will be a credit in
8 your name for the benefit of the Mayor's Disaster Relief
9 Fund."

10 Q. Agent Burns, were there any phone calls between any of
11 the Defendants regarding the Oklahoma City bombing?

12 A. Yes.

13 Q. Who?

14 A. The Defendants Mohammad El-Mezain and Abdulrahman Odeh.

15 Q. Do you have before you what has been marked as El-Mezain
16 Wiretap No. 2?

17 A. I do.

18 Q. Is that a phone call?

19 A. It is.

20 Q. What is the date of it?

21 A. April 19th, 1995.

22 MR. JONAS: Your Honor, at this time I would offer
23 into evidence El-Mezain Wiretap No. 2.

24 THE COURT: Admitted.

25 MR. JONAS: If we can play that call, please.

1 (Whereupon, El-Mezain Wiretap No. 2 was played,
2 while questions were propounded.)

3 Q. (BY MR. JONAS) Who is the MO?

4 A. That is the Defendant Mohammad El-Mezain.

5 Q. And who is the AB?

6 A. That is the Defendant Abdulrahman Odeh.

7 Q. Agent Burns, I want to move away from the Philadelphia
8 meeting.

9 MR. JONAS: Your Honor, I can keep going, or we can
10 break. It is up to you?

11 THE COURT: Are you at a good breaking point?

12 MR. JONAS: Yes.

13 THE COURT: Let's go ahead and break for the day,
14 then.

15 Be back at 9:00 in the morning. Please recall the
16 instructions about not discussing the case with anyone or not
17 reading anything about it.

18 (Whereupon, the jury left the courtroom.)

19 THE COURT: Agent Burns, you can step down.

20 Do we need to come in early in the morning and finish up
21 the rest of these exhibits you intend to offer through Agent
22 Burns, or where are we with that?

23 MR. JONAS: Your Honor, I believe the only other
24 issues are the magazines --

25 THE COURT: The magazines, and maybe the rest of the

1 newspaper articles.

2 Anything else that anybody thinks we need to address as
3 far as the exhibits that were given to you that he plans on
4 offering through Agent Burns?

5 MR. CLINE: I don't think so, other than the ones
6 that Mr. Jonas has mentioned that we have our continuing
7 objections.

8 THE COURT: I understand those. Why don't we be
9 here at 8:30 in the morning, and we will address those issues.
10 If you can think of something else, we will address them then.
11 Don't work too hard on it.

12 MR. JONAS: Your Honor, I am going to go through the
13 schedules and summaries that we admitted today, and I am going
14 to make sure that I offered for admission all the supporting
15 documentation. And if I missed any of that, I would like to
16 clean that up in the morning.

17 THE COURT: Sure. We will do that.

18 (End of day.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/04/2009

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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